

Submissions to the CSG Shared State Legislation Committee should be sent to staff at least eight weeks in advance of the next scheduled SSL committee meeting in order to be considered for that meeting's docket. Submissions received after this deadline will be held for a later meeting. The status of any item on this docket is listed as reported by the submitting state's legislative internet web site or by telephone from state legislative service agencies and legislative libraries. **Abstracts of the legislation on CSG SSL dockets and in CSG SSL volumes are usually compiled from bill digests and state legislative staff analysis.**

CSG COMMITTEE ON  
SHARED STATE LEGISLATION

2019 CYCLE  
DOCKET BOOK A  
December 14 & 15, 2017  
Las Vegas, Nevada

## SSL PROCESS

With the goal of sharing innovations in state policy, the CSG Shared State Legislation (SSL) Committee identifies, curates and disseminates state legislation on topics of major interest to state leaders. Committee members include two state legislators and one state legislative staff person appointed from each member jurisdiction. No private sector entities are permitted to serve on the CSG SSL Committee.

CSG SSL Committee members meet several times a year to consider legislation. The items chosen by the committee are published online at [www.csg.org/ssl](http://www.csg.org/ssl) after every meeting and are then compiled into an annual CSG Shared State Legislation volume. The volumes are usually published in conjunction with the start of each year's state legislative sessions.

**The consideration or dissemination of such legislation by the CSG SSL Committee does not constitute an endorsement nor will CSG advocate for the enactment of any such legislation in any member jurisdictions.**

CSG SSL Committee members, other state officials, and their staff, CSG Associates and CSG staff may submit legislation directly to the committee. The committee also considers legislation from other sources, but only when that legislation is submitted through a state official. Other sources include public interest groups and members of the corporate community who are not CSG Associates.

It takes many bills or laws to fill the dockets of a one year-long SSL cycle. Items should be submitted to CSG at least eight weeks in advance to be considered for placement on the docket of a scheduled SSL meeting. Items submitted after that date are typically held for a later meeting.

Committee members prefer to consider legislation that has been enacted into law by at least one state. Legislation that addresses a single, specific topic is preferable to omnibus legislation that addresses a general topic or references many disparate parts of a state code. Occasionally, committee members will consider and adopt uniform or "model" legislation or an interstate compact. In this case, the committee strongly prefers to examine state legislation that enacts the uniform or model law, or interstate compact. **The CSG SSL Committee does not draft or create "model" legislation.**

In order to facilitate the selection and review process on any submitted legislation, it is particularly helpful to include information on the status of the legislation, an enumeration of other states with similar provisions, and any summaries or analyses of the legislation.

Legislation and accompanying materials may be submitted to the CSG Shared State Legislation Program, The Council of State Governments, 1776 Avenue of the States, Lexington, Kentucky 40511, (859) 244-8000, fax (859) 244-8001, or [ssl@csg.org](mailto:ssl@csg.org).

## SSL CRITERIA

(1) Does this bill:

- a) Address a current state issue of national or regional significance;
- b) Provide a benefit to bill drafters; and
- c) Provide a clear, innovative and practical structure and approach?

(2) Did this legislation become law?

The word “Act” as used herein refers to both proposed and enacted legislation. Attempts are made to ensure that items presented to the CSG SSL Committee are the most recent versions. However, interested parties should contact the originating state for the ultimate disposition of any docket entry in question, including substitute bills and amendments. Furthermore, the SSL Committee does not guarantee that entries presented on its dockets or in a *CSG Shared State Legislation* volume represent the exact versions of those items as enacted into law, if applicable.

## PRESENTATION OF DOCKET ENTRIES

Docket ID#

Title

State/source

Bill/Act

Summary: [These are typically excerpted from bill digests, committee summaries, and related materials which are contained in or accompany the legislation.]

Status: [Action taken on item in source state.]

Comment: [Contains references to other bills or information about the entry and issues the members should consider in referring the entry for publication in SSL. Space may also be used to note reaction to an item, instructions to staff, etc.]

Disposition of Entry: [Action taken on item by the SSL Committee.]

SSL Committee Meeting: Year A or B

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

\*Item was deferred from the previous SSL cycle

SSL DOCKET CATEGORIES - 2017A and later

1. Agriculture

2. Commerce & Labor

3. Education

4. Energy

5. Environment

6. Government

7. Health

8. Justice

9. Technology

10. Transportation

2019 SSL CYCLE  
Docket 39A

ITEM NO., TITLE OF ITEM UNDER CONSIDERATION	SOURCE
(*) Indicates item is carried over from previous SSL cycle.	
<b>(01) AGRICULTURE</b>	
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<b>(02) COMMERCE AND LABOR</b>	
02-39A-01 Defined Contribution Retirement Plans	<a href="#">OR</a>
02-39A-02 An Act to Encourage Dual Credit Courses for Pilot Programs	<a href="#">ND</a>
02-39A-03 An Act Revising Provisions Governing Financial Planners	<a href="#">NV</a>
02-39A-04 An Act Protecting the Interests of Consumers Doing Business With Financial Planners	<a href="#">CT</a>
02-39A-05 Registration of Persons Offering Property for Rental	<a href="#">VA</a>
02-39A-06 Provisions to Protect Internet Identity	<a href="#">NV</a>
02-39A-07 Fee Waiver Program for Entrepreneurs	<a href="#">AR</a>
02-39A-08 Tax Credit for Rural Downtown Development	<a href="#">GA</a>
02-39A-09 Prisoner Entrepreneur Education Program	<a href="#">IL</a>
02-39A-10 Economic Diversification Council	<a href="#">WY</a>
02-39A-11 Broadband Accessibility	<a href="#">TN</a>
02-39A-12 Electronic Wills	<a href="#">NV</a>
*02-39A-13 Reporting and Paying of Taxes on Behalf of AirBnB Hosts	<a href="#">AZ</a>
<b>(03) EDUCATION</b>	
03-39A-01 Changes the Law Regarding Job Training	<a href="#">MO</a>
03-39A-02 Alternative School Transportation	<a href="#">NM</a>
03-39A-03 Legislative Task Force on Workforce Education Excellence	<a href="#">AR</a>
03-39A-04 Productivity-Based Funding Model for State-Supported Institutions of Higher Education	<a href="#">AR</a>
03-39A-05 Universal Preschool	<a href="#">CT</a>
03-39A-06 Student Loan Bill of Rights	<a href="#">CT</a>
03-39A-07 Innovative Education Programs	<a href="#">ND</a>
03-39A-08 Civics Test Required for Graduation	<a href="#">AL</a>
03-39A-09 Strategic Action Plan to Address Teacher Shortages	<a href="#">CO</a>
03-39A-10 Authorizing Public Charter Schools	<a href="#">KY</a>
03-39A-11 Early Warning Pilot Program	<a href="#">UT</a>
03-39A-12 Digital Citizenship, Media Literacy, and Internet Safety	<a href="#">WA</a>
03-39A-13 Apprenticeship Requirements for State Contractors	<a href="#">OR</a>
03-39A-14 Women's Vocational Training Pilot Program	<a href="#">NJ</a>
03-39A-15 Establishes Legislative Findings and Intent Regarding State Workforce and Talent Development Board	<a href="#">OR</a>
03-39A-16 Virginia Initiative for Employment Not Welfare	<a href="#">VA</a>
03-39A-17 Hunger-Free Students' Bill of Rights Act	<a href="#">NM</a>
*03-39A-18 New Economy Workforce Grant Program	<a href="#">VA</a>

03-39A-19	Labor Education Alignment Program	<a href="#">TN</a>
<b>(4) ENERGY</b>		
04-39A-01	Property Assessed Clean Energy Program	<a href="#">CA</a>
04-39A-02	Property Assessed Clean Energy Program: Program Administrators	<a href="#">CA</a>
04-39A-03	The Future Energy Jobs Bill	<a href="#">IL</a>
04-39A-04	Energy Storage Tax Credit	<a href="#">MD</a>
04-39A-05	Committing to Paris Climate Accord	<a href="#">HI</a>
04-39A-06	Statewide Municipal Solar Permit	<a href="#">RI</a>
04-39A-07	Property Assessed Clean Energy Act	<a href="#">IL</a>
04-39A-08	Repealing Ban on Nuclear Power	<a href="#">KY</a>
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06-39A-05	Prohibits Local Tax Incentives until Tax Obligations Are Met	<a href="#">ND</a>
*06-39A-06	Sharing Digital Images of Marked Ballots on Social Media	<a href="#">HI</a>
06-39A-07	Revising Certain Boards and Commissions Statutes to Adopt the Requirements of North Carolina State Board of Dental Examiners	<a href="#">AL</a>
06-39A-08	Revising Certain Boards and Commissions Statutes to Adopt the Requirements of North Carolina State Board of Dental Examiners	<a href="#">CT</a>
<b>(7) HEALTH</b>		
07-39A-01	Certain Physician Orders for Minors	<a href="#">KS</a>
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07-39A-04	Health Benefit Coverage Cessation Treatment	<a href="#">KY</a>
07-39A-05	Amending the AIDS Confidentiality Act	<a href="#">IL</a>
07-39A-06	Lead User Service Lines	<a href="#">CA</a>
07-39A-07	Doctor of the Day Amendment	<a href="#">MS</a>
07-39A-08	Brain Injury Training for Student Athletes	<a href="#">NM</a>
07-39A-09	Pilot Program for Support of Mental Health Courts	<a href="#">OH</a>
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07-39A-11	School Sunscreen Provision	<a href="#">UT</a>
07-39A-12	Price Gouging Prohibition	<a href="#">MD</a>
07-39A-13	Capping Prescription Prices for Medicaid	<a href="#">NY</a>
07-39A-14	Requiring Lead Testing in Schools	<a href="#">VA</a>
07-39A-15	Requiring Lead Testing in Schools	<a href="#">MD</a>
07-39A-16	Caregivers Assistance Act	<a href="#">HI</a>
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*07-39A-18	Opioid Antagonists in Schools	<a href="#">MI</a>
*07-39A-19	Opioid Antagonists in Schools	<a href="#">MI</a>
07-39A-20	Heroin and Opioid Education and Community Action Act	<a href="#">MD</a>
07-39A-21	Prior Authorization for Drug Products to Treat an Opioid Use Disorder – Prohibition	<a href="#">MD</a>
07-39A-22	Nurse Licensure Compact	<a href="#">KY</a>
07-39A-23	Interstate Medical Licensure Compact	<a href="#">WA</a>
07-39A-24	Psychology Interjurisdictional Compact	<a href="#">UT</a>
07-39A-25	Emergency Medical Services Personnel Licensure Compact	<a href="#">DE</a>
07-39A-26	Physical Therapy Licensure Compact	<a href="#">ND</a>

#### (8) JUSTICE

08-39A-01	Sandra Bland Act	<a href="#">TX</a>
08-39A-02	Trespassing, Interference and Destruction of Critical Infrastructure	<a href="#">OK</a>
08-39A-03	Trespassing, Interference and Destruction of Critical Infrastructure	<a href="#">OK</a>
08-39A-04	Uniform Family Law Arbitration Act	<a href="#">HI</a>
08-39A-05	Concerning Computer Extortion by Use of Ransomware	<a href="#">CT</a>
08-39A-06	Creating Office of Cyber Defense Coordination	<a href="#">NV</a>
08-39A-07	Deferral and Dismissal Eligibility for Victims of Human Trafficking	<a href="#">MI</a>
08-39A-08	Sanctuary State Bill	<a href="#">CA</a>
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#### (9) TECHNOLOGY

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09-39A-02	Establishing Misdemeanors for Sex Offenders Who Use Drones Inappropriately	<a href="#">IN</a>
09-39A-03	Establishing Misdemeanor Offenses for Harassing Livestock with Drones	<a href="#">UT</a>
09-39A-04	Criminal Penalties for Drone Operators who Commit Trespass, Voyeurism or Other Privacy Violations	<a href="#">UT</a>

#### (10) TRANSPORTATION

10-39A-01	Roadside Drug Testing Pilot Program	<a href="#">MI</a>
10-39A-02	Roadside Drug Testing Pilot Program	<a href="#">MI</a>
10-39A-03	Vehicles: Use of Wireless Electronic Devices	<a href="#">CA</a>

10-39A-04	Electronic Driver's License	<a href="#"><u>LA</u></a>
10-39A-05	Utilizing Vehicle Technology during Driver's Test	<a href="#"><u>NJ</u></a>
10-39A-06	To Regulate Vehicles with Driver-Assistive Truck Platooning Systems	<a href="#"><u>AK</u></a>
10-39A-07	Regulating Driverless Vehicles	<a href="#"><u>CO</u></a>
10-39A-08	Public-Private Transportation Act	<a href="#"><u>TN</u></a>
10-39A-09	Ride-Hailing Regulations	<a href="#"><u>TX</u></a>
10-39A-10	Requiring Ride-Hailing Drivers to Maintain Business Licenses	<a href="#"><u>NV</u></a>
10-39A-11	Allowing Driver-Assistive Platooning Technology	<a href="#"><u>NV</u></a>

01-39A-01     Authorizing the Growing of Industrial Hemp  
Bill/Act: [ESSB 6206](#)

Washington

**Summary:**

Authorizes the growing of industrial hemp as a legal, agricultural activity in this state.

Requires Washington State University to study the feasibility and desirability of industrial hemp production in the state. This requirement expires August 1, 2017.

**Status:** Became law on March 30, 2016.

**Comments:** From the [Washington State Department of Agriculture](#) (March 31, 2016)

The [Washington State Department of Agriculture](#) (WSDA) is preparing to create an industrial hemp research licensing program now that legislation has been approved allowing a research program for industrial hemp. The bill, [ESSB 6206](#), directs WSDA to design a program to license researchers and certify industrial hemp seed.

This process is expected to take some time. Licenses for industrial hemp production are not currently available.

Industrial hemp is an agricultural product with many potential uses. It is grown primarily as a source of fiber used in textiles, rope, paper and building materials. Hemp seed is used for food and oil, which can be used in pharmaceuticals, cosmetics, inks, soaps and paints. The plants are also a source of livestock feed and bedding.

About 30 countries in Europe, Asia and North and South America permit farmers to grow hemp. Twelve U.S. states have legalized hemp production and several others allow cultivation for research projects. Hemp was grown in Washington state before it became federally prohibited.

As a cannabis plant, industrial hemp is considered a controlled substance under federal law. However, the 2014 Farm Bill defined industrial hemp and authorized state agriculture departments and higher education institutions to grow the crop for research purposes, when states legalize it.

“We understand that growers are anxious to join those already producing industrial hemp in other states and we will move quickly to establish a program here,” WSDA Director Derek Sandison said. “However, we must now lay the groundwork for the program before we can begin taking applications and issuing licenses to hemp growers.”

WSDA officials will begin the [rule-making process](#) after the bill goes into effect on June 28. This process includes soliciting and considering public input. Subject to the availability of federal or private funds, the bill also directs Washington State University (WSU) to conduct research studying the feasibility and desirability of producing industrial hemp in Washington. A report on its findings is due to the Legislature in January 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

02-39A-01     Defined Contribution Retirement Plans  
Bill/Act: [H.B. 2960](#)

Oregon

**Summary:**

Creates seven-member Oregon Retirement Savings Board, to be chaired by Treasurer or Treasurer's designee. Directs Board to develop defined contribution retirement plan for people employed in Oregon. Sets requirements and limitations of the retirement plan. Establishes confidentiality of information regarding individual accounts. Establishes Retirement Savings Plan Administrative Fund to pay costs and expenses of administering plan. Directs agencies that enter into interagency agreement with Board to report to Board by January 1, 2016, on plan to provide outreach, technical assistance and compliance services. Directs Board to report to appropriate committee of Legislative Assembly by December 31, 2016. Preempts local government from establishing or offering any retirement plan for persons not employed by public body. Directs Board to establish retirement plan, unless the plan would not qualify under the Employee Retirement Income Security Act of 1974, so individuals can make contributions by June 16, 2017. Appropriates \$250,000 from the General Fund to the Board to reimburse state agencies for providing outreach and technical assistance to the Board. Declares emergency, effective on passage.

**Status:** Became law on June 25, 2015.

**Comments:** From the [Statesman Journal](#) (March 15, 2015)

If there's one thing everyone seems to know about state employees, it's that they are members of the Public Employees Retirement System and have excellent retirement benefits.

Some people find that enviable, but others find it galling, particularly when they work for employers who don't offer anything.

There is a bill in the Legislature right now that is aimed at helping those people whose place of work doesn't offer them any retirement option at all. It would not create a plan anything like PERS, but it would be more than many people have now.

[House Bill 2960](#) would create the Oregon Retirement Savings Board to oversee a retirement plan that would be available to all Oregonians whose employer doesn't offer a 401(k) or other plan.

By "oversee," the bill means the board would hire a private company to run the retirement plan, and the board would simply provide the oversight to make sure that company isn't stealing people's money, for example.

The bill came out of the [Retirement Savings Task Force](#), created by Treasurer Ted Wheeler. The group released its findings late in 2014, and its report found that most Oregonians aren't saving nearly enough for retirement.

The biggest problems, it found, are that people don't have access to plans through their employers and it's too complicated to figure out what plan they should have.

That creates long-term issues, the group said, because elderly people who live in poverty end up needing public assistance and face other difficulties.

HB 2960 aims to solve that problem by creating a plan, much like an IRA or 401(k), that is privately managed and available no matter where you work. Contributions would be made through paychecks via automatic deductions, and the fund would travel with the employee from job to job. It could also be rolled over into a 401(k).

Rep. Tobias Read, D-Beaverton, is co-sponsoring the bill, and he said it is a good idea for several reasons.

Tobias Read, D-Beaverton, speaks to the House of Representatives during the first day of the 2015 Oregon Legislature. He is sponsoring a bill that would create a retirement plan accessible to all Oregonians. (Photo: Brent Drinkut / Statesman Journal)

Retirement saving is too complicated for most people to tackle on their own, he said. One industry expert told him there are about 30,000 available plans in Oregon right now, and that can be overwhelming.

People don't know how to know if a plan is good or if it's right for them or if they're being taken for a ride, Read said.

Studies have shown that among people with access to retirement plans through an employer, about 71 percent invest. Among people who don't have that access, less than 5 percent do.

The proposal before the Legislature would make a private plan available through all employers, and that helps the businesses too, Read said. Many small businesses can't afford to offer all the benefits they would like, he said, and they're in support of this idea.

It also catches people when they're young and moving from job to job, he said. Statistics show that the earlier a person begins saving, the better off he or she will be in retirement.

HB 2960 has some bipartisan support. [Rep. Bill Kennemer, R-Oregon City](#), is listed as [a co-sponsor](#), and Read said both sides of the aisle support solving the retirement savings problem in Oregon.

Some people have said the state has no business involving itself in the issue, Read said, but he disagrees.

The program is nothing like PERS, which is a defined benefit plan that relies on employer contributions. HB 2960 creates nothing of the sort. The plan would be privately run, take no money from employers and guarantee nothing.

And it is the government's role to get involved here, Read said.

This is a rare opportunity to do something that benefits both individuals and society collectively, he said, and it would be a shame to miss it.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

02-39A-02 An Act to Encourage Dual Credit Courses for Pilot Programs North Dakota  
Bill/Act: [S.B. 2244](#)

**Summary:**

An act to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to a pilot program to create an incentive for instructors to teach dual-credit courses; and to provide an appropriation.

**Status:** Filed with Secretary Of State April 5, 2017

**Comments:**

The bill, which establishes the North Dakota Century Code, is a response to recent guidelines by a regional accreditor, the Higher Learning Commission, that clarifies the minimum qualifications for teachers seeking to teach a dual credit/enrollment course; namely a Master's degree and 18 credits in the subject to be taught. The pilot program uses a credit-for-credit voucher as an incentive for teachers to "credential up".

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

02-39A-03 An Act Revising Provisions Governing Financial Planners Nevada  
Bill/Act: [S.B. 383](#)

**Summary:**

An act relating to financial planners; imposing a fiduciary duty on broker-dealers, sales representatives and investment advisers who for compensation advise other persons concerning the investment of money; authorizing the Administrator of the Securities Division of the Office of the Secretary of State to adopt regulations concerning such fiduciary duty; providing penalties; and providing other matters properly relating thereto.

**Status:** Became law on March 30, 2016.

**Comments:** From [The Las Vegas Sun](#) (May 29, 2017,)

Senate Majority Leader Aaron Ford recently presented Senate Bill 383, a measure aimed at ensuring financial planners, advisers and broker-dealers are required under law to put the interests of their clients first when investing their savings. This requirement is commonly known as the Fiduciary Rule.

This bill should clear the Legislature and be signed by Gov. Brian Sandoval with ease, but of course everything changes when money enters the picture. The bill made it out of the Senate, but without the support of a single Republican. This perplexes me.

I have spent the last 37 years as a professional insurance agent specializing in, but not limited to, coverage for seniors. Most people have no idea what the word fiduciary means and may not understand that SB 383 is a bill to protect their hard-earned retirement from less-than-ethical broker/dealers and people who give investment advice. I have personally met many seniors who have been taken advantage of by unethical broker-dealers, either losing their retirement funds or being steered into investments that benefited the broker-dealer more than the client.

In its simplest form, fiduciary means “a level of trust.” An accountant operates as a fiduciary. A title company operates as a fiduciary. Your bank operates as a fiduciary. In most states an insurance agent operates as a fiduciary. You trust that they will do right where your finances are concerned. Fiduciaries are held to a higher standard because you trust they will not do you any harm when dealing with your money.

At the federal level, a new fiduciary standard was supposed to go into effect this month that would have made SB 383 unnecessary. Unfortunately, the Trump administration halted the scheduled implementation of this new standard. Now it is up to the state of Nevada to protect our seniors from irresponsible investment advisers and broker-dealers.

Is SB 383 really necessary? You be the judge. Not too many years ago, I met with a prospective client, age 77, who had gone to a financial adviser/broker when she retired at age 62. He advised her to put 100 percent of her liquid assets into the stock market. She started with \$106,000 at age 62, and now had \$142,00 in her account at age 77. Her return on investment in 15 years

amounted to just over 2 percent per year. Her financial adviser/broker however, had made well over 5 percent per year in fees from her money. He made \$85,000 from her investments by churning her account, and she made \$36,000. Nice work if you can get it. Was he acting in her best interest?

This example is not an isolated incident; I could provide many more. This type of abuse is happening every day to elderly people all over the country who are not protected against those who would take advantage of their lack of financial acumen. Sen. Ford's bill will change that by putting financial advisers and broker-dealers under the same fiduciary rules as financial planners. Isn't it time that financial planners, advisers and broker-dealers be required to put their client's needs before their own? I believe it is, along with countless Nevadans who deserve to have their hard-earned savings protected.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

02-39A-04 An Act Protecting the Interests of Consumers Doing Business with Financial Planners Connecticut  
Bill/Act: [H.B. 6992](#)

### **Summary:**

To provide protections for consumers who receive investment advice from financial planners.

**Status:** Signed by Governor July 5, 2017.

**Comments:** From [MultiState Insider](#) (June 29, 2017)

States are reacting to uncertainty surrounding recent federal regulations on the standard of care financial planners use for their clients' accounts by passing state based rules. A fiduciary duty imparts the highest degree of legal responsibility on financial planners by requiring them to set aside personal or company interests in favor of their clients' interests. While many investment firms require their investment advisers to operate under fiduciary duties rules, many broker-dealers who also manage accounts like retirement savings accounts are exempt. Instead, these broker-dealers operate based on a [suitability standard](#). In contrast to a fiduciary standard, a suitability standard only requires broker-dealers to make "suitable" recommendations to their clients, allowing them to avoid having to place their interests below their clients' interests.

### **Federal Action**

Earlier this month, a U.S. Department of Labor (DOL) regulation ([29 CFR 2510](#)) reforming fiduciary requirements went into effect. The rule, which was drafted during the Obama Administration and initially scheduled to go into effect at the beginning of the year, was [delayed](#) by the incoming Trump Administration for further review. According to White House Press Secretary Sean Spicer, the regulation [represented](#) "exactly the kind of government regulatory overreach the president was put in office to stop." However, Trump-appointed Secretary of Labor Alexander Acosta allowed the rules to go into partial effect on June 9.

In their current form, the rules require financial planners and investment brokers who handle retirement savings accounts to operate using a fiduciary standard. The rationale is that this operating standard would prevent broker-dealers from steering client funds toward retirement securities with higher fees and lower returns, a practice that the Obama Administration estimated costs investor [\\$17 billion dollars a year](#).

However, a Goldman Sachs report [estimates](#) that complying with the new rules will cost \$13 billion initially and more than \$7 billion annually. Industry players are also worried that the high cost associated with disclosure requirements will decrease the sale of annuities, an important investment tool in retirement accounts. Annuity carriers argue that the rule and resulting decrease in annuity sales will adversely impact investors who benefit from the guaranteed lifetime income that annuities offer. [The National Association for Fixed Annuities](#) and [U.S. Chamber of Commerce](#) have filed lawsuits on similar grounds. Some also [argue](#) that it is impossible for fee-only advisers to give conflict-free advice, and that the required fees charged are enormous when

compounding interest is factored in. For example, a fee of 1 percent over a period 40 years could result in the loss of hundreds of thousands dollars to the client.

Despite going into partial effect, the future of the rules is far from set in stone. Last year, Congress [voted to overturn](#) these DOL regulations, but President Obama vetoed the legislation. This year, one day before the rules went into effect, the House of Representatives [passed a bill](#) that would scrap them. It remains unclear whether President Trump would sign such legislation into law. Large financial industry players such as the Financial Services Institute are also [opposed](#) to the DOL rules as they are currently written. The uncertainty about the rules' long-term survivability has caused some states to explore their own financial industry reform legislation.

## State Action

Nevada has taken the most significant steps toward addressing the fiduciary issue. A new law ([NV SB 383](#)), which Governor Brian Sandoval (R) signed earlier this month, not only extends the fiduciary standard to all financial planners, including broker-dealers, but it also requires financial planners to disclose any profits or commissions they might receive from a client's investments. The law also requires financial planners to periodically assess a client's financial goals to ensure the adviser is aware of them and reasonably trying to meet them. Some industry experts have speculated that the provision of the law requiring brokers to act as fiduciaries could be subject to a legal challenge.

"There could be a federal pre-emption issue." George Michael Gerstein, counsel at Stradley Ronon Stevens & Young, told the *MultiState Insider*. "There's a little bit of a question as to whether a state could force broker-dealers to register [as a fiduciary] when they don't have to do so at the federal level."

Connecticut, New York, and New Jersey are also considering legislation to address concerns over fiduciary duties, though their proposed reforms are far less sweeping than Nevada's. In these three states, bills focus on expanding disclosure requirements. Under bills in New York and New Jersey, "non-fiduciary investment advisors," meaning "any individual or institution that advertises or uses in self identification any term that is suggestive of investment," would be required to obtain a written acknowledgment from clients that the adviser is not a fiduciary ([NJ AB 2729](#)).

A Connecticut bill ([CT HB 6992](#)) operates under a similar principle, but with slightly different language. There is no written statement requirement and the disclosure only has to be made upon request. The bill defines financial planners in the state as "a person offering individualized financial planning or investment advice to a consumer for compensation." The bill recently passed the state legislature, and Governor Dan Malloy (D) has five business days to sign or veto the bill.

The bipartisan action in Nevada demonstrates that state lawmakers are willing to address issues concerning conflicts of interest and fiduciary standards in retirement savings. In addition to passing their own laws, groups like the National Association of Insurance Commissioners [are](#)

examining the possibility of state regulators using key provisions of the DOL fiduciary rule to establish “uniformity and consistency” for the sale of annuities. If Congress repeals the DOL fiduciary regulations in the upcoming debates over the Dodd–Frank Wall Street Reform and Consumer Protection Act, states may attempt to further fill the void. If this is the case, bills like those in Nevada and New Jersey could become models for legislators in other states.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Short-term rental of property. Affirms the rights of localities to regulate the short-term rental of property, defined as the provision of space suitable for sleeping or lodging for fewer than 30 days. If a locality allows short-term rentals, the locality shall require that the person offering property for rental notify adjacent landowners in writing, obtain local permission to offer the property for rental, and carry a minimum of \$500,000 of commercial premises liability insurance.

If a locality prohibits short-term rentals, any person or entity, including an online hosting platform, that advertises the availability of a short-term rental in the locality shall be subject to a \$10,000 fine per violation. This bill was incorporated into SB 1578.

**Status:** Became law on March 24, 2017.

**Comments:** From [the Orange County Review](#) (August 2, 2017)

A new law which went into effect July 1 allows localities in Virginia to regulate short-term rentals such as rooms offered through the popular online Airbnb platform. As the number of transient lodging listings (and bookings) continues to rise, the Town of Orange Planning Commission has taken a proactive look toward short-term rentals. A proposed ordinance requiring properties being used for short-term rentals to be registered with the town will go to public hearing Aug. 28.

While Orange has a minimal amount compared to areas such as Charlottesville, which has counted more than 900 rentable room listings to date, the town hopes a registry will provide officials a better understanding of who is operating transient lodging and if any future action is required.

The town's discussion on the topic began this spring with the passage of state legislation regarding local regulation of short-term rentals.

Senate Bill 1578, which was sponsored by Senate Majority Leader Thomas K. Norment Jr., R-James City, enables local governments to adopt ordinances requiring people to register if they want to offer their property for short-term rentals. Registries would give local governments information needed to regulate and tax the rentals. The bill, which received support from many hotel and bed-and-breakfasts businesses, passed both the Senate and House of Delegates by wide margins.

The law went into effect July 1 and "authorizes a locality to adopt an ordinance requiring the registration of persons offering property for short-term rental." Short-term rental is defined as a room or space suitable for sleeping or lodging for less than 30 consecutive days for compensation.

Localities also could impose fees and penalties of up to \$500 on people who fail to register, or whose rentals don't comply with state, federal or local laws. The law amended the Alcoholic Beverage Control (ABC) Act requiring that people who offer property for short-term rental must obtain a bed-and-breakfast ABC license if they want to serve alcoholic beverages to guests.

The town's planning commission held several work sessions earlier this summer on the new law, inviting town citizens and the local hospitality industry to join the discussion. Those conversations aided in the drafting of the town's proposed ordinance requiring short-term rentals to register with the town.

"We know who the legitimate lodging B&Bs are because we pay you your lodging tax," said Victoria Tourville, owner of the Inn at Poplar Hill. "The more that aren't registered and aren't paying that tax means the town is losing that money. I think that's your number one reason to have a registry and look at this."

Owner and innkeeper at Holladay House Sharon Elswick agreed.

"They're not 24/7 like we are but they are competition," she said. "I don't have a problem with that because new competition is part of being a business owner—but they need to register and play by the same rules."

Not all speakers felt the same.

Town of Orange resident Len Koczur questioned the need for "complex regulations" being proposed for the limited number of local properties listed on Airbnb.

"Government should stay out of people's lives until there is a need. We need a police force, street cleaners, trash picked up—although we shouldn't be charged—but there is no need for this," he said.

Should short-term rentals become an issue in town, Koczur said the town could revisit the ordinance at that time.

"We're preparing for the future," said Ben Sherman, chairman of the commission. "That's what we should be doing as a planning commission."

Koczur also questioned how Airbnb properties could compete with the luxury services local B&Bs offer. Elswick said Airbnb is no longer providing a couch-surfing service, but instead marketing on the same experiences the established hospitality industry is.

"It's not just the place they're staying but they're taking advantage of all the advertisement and marketing that professionals, the town, county and your tax dollars go to spend and promote the area," she said.

Both Elswick and Tourville's B&Bs belong to Inns at Montpelier, an association of privately-owned boutique hotels, inns and bed-and-breakfasts within a 20-mile radius of historic Montpelier.

"In speaking with the Inns at Montpelier group, this past UVa graduation weekend, we usually fill up the moment they announce graduation for the next year—a year in advance. None of us were full because of the Airbnb situation," Elswick said.

According to town attorney Gail Marshall, short-term rentals were a hot topic during this year's General Assembly session and proposals are already being made for next year for the state to oversee Airbnb regulations.

She said an alternative proposal made by Airbnb this session would have included a mechanism for Airbnb to collect local and state taxes on behalf of hosts in Virginia and remit those payments to the state.

"We are attempting to move forward to hopefully preempt any general assembly action at the next session," said John Cooley, director of community development.

During a work session in July, the planning commission reviewed a draft ordinance and registration form which Marshall prepared.

The proposed ordinance requires owners or operators of short-term rentals to register annually with the town's zoning administrator (Cooley). The town is proposing no registration fee, though state code allows it.

Registration is not required for those licensed by the Real Estate Board or a property owner represented by a real estate licensee; registered pursuant to the Virginia Real Estate Time Share Act or licensed with the Department of Health for lodging if they show Cooley evidence of their licensing or registration.

If the ordinance is adopted, people who fail to register while they're offering lodging would be required to pay a \$500 fee. Until that fee is paid, the operator would not be able to offer lodging. Additionally, repeated violations would prohibit operators from offering lodging for two years.

Cooley said if the ordinance is adopted by the Orange Town Council, not only will violators face a fine, but there will be additional consequences for not paying the transient occupancy tax, which is paid to the town quarterly.

"It's really tough sometimes talking about ordinances, taxes, fines and other things, but it's a necessity," Cooley said. "If you're going to do business in the Town of Orange, this is what we're asking. We don't feel like it is overly aggressive or aggressive at all. It's just a way for us to know what is going on in the town and to make it safe for the town's people and the visitors."

According to the town's proposed registration form, a owner or operator of a short-term rental must be in the rental property or a contact person must be within 25 miles of the property when a person is lodging there in case of emergencies.

"I don't want to over-regulate anything but I would like to ensure that people who come here that they will be in a safe environment," Cooley said.

Elswick said she thinks providing a contact person also goes toward the hospitality that Orange is very much known for.

Commissioners agreed that short-term rental platforms such as Airbnb are only going to expand, so being proactive would benefit the town.

"We want an ordinance that will cover us in the effect that when we do have more of them come about, that we can collect the taxes and that there is a fair and equal balance with the B&Bs so the B&Bs aren't at a disadvantage," Sherman said.

Cooley said the ordinance requiring short-term rental owners or operators to register is the town's first step toward addressing the issue. He said he hopes the registration will provide visitors a semblance of safety while also providing neighbors and other citizens an understanding that the town knows what is going on.

By knowing how many short-term rentals are operating, Cooley said the town will be better equipped to track the progress of the issue and when updates to the ordinance or other zoning language would be required.

"We're really trying to provide everyone a level playing field so that the hotels, motels, local B&Bs and the people doing Airbnb are all on a level playing field and doing the same thing," he said. "If they're not paying the taxes, they're getting an added benefit over the hotels and motels. At the end of the day, that's why we're doing this."

Cooley said he hopes the citizens will continue to be involved in the discussion moving forward, including providing comments at the upcoming public hearing.

"We need to talk to these people and take their concerns into account as we move forward because we all live, work and play here, and it's important to listen to each other," he said. "Having citizens come out and provide their input is the only way that we can craft an ordinance that will hopefully make the town better for everybody."

The planning commission has scheduled a public hearing for Aug. 28. The planning commission meets the first and fourth Monday of every month at the Town of Orange Community Center, located at 235 Warren St.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

**Summary:**

Adopts provisions to protect Internet privacy. An Act relating to Internet privacy; requiring certain operators of Internet websites or online services which collect certain information from residents of this State to provide notice of certain provisions relating to the privacy of the information collected by the operator; and providing other matters properly relating thereto.

Existing law requires a data collector that maintains records which contain personal information of a resident of this State to implement and maintain reasonable security measures to protect such records. (NRS 603A.210) Section 5 of this bill defines an “operator” as a person who: (1) owns or operates an Internet website or online service for commercial purposes; (2) collects certain information from consumers who reside in this State and use or visit the Internet website or online service; and (3) has certain minimum contacts with this State. Section 6 of this bill requires certain operators to make available a notice containing certain information relating to the privacy of covered information about consumers which is collected by the operator through its Internet website or online service. Section 6 excludes from this requirement an operator who: (1) is located in this State; (2) derives its revenue primarily from a source other than online sales; and (3) whose Internet website or online service has fewer than 20,000 unique visitors per year. Section 6 also allows an operator to remedy any failure relating to making such a notice available within 30 days after being informed of the failure. Section 7 of this bill prohibits an operator from knowingly and willfully failing to remedy such a failure within 30 days after being informed or making a knowing and material misrepresentation or omission in such a notice that is likely to mislead a consumer to the detriment of the consumer. Section 8 of this bill authorizes the Attorney General to seek an injunction or a civil penalty against an operator who engages in such an act.

**Status:** Became law on March 30, 2016.

**Comments:** From [State Scoop](#) (August 18, 2017)

In October, Nevada will become the third state to require website owners to notify visitors about how they’re collecting and using consumer data.

Nevada's Senate Bill 538 signed into law on June 12 signifies a growing trend by state policymakers to circumvent a repeal of FCC privacy rules initiated by Congress and the Trump administration in April. Sponsored by Democratic Senate Majority Leader Aaron Ford and Assembly Speaker Jason Frierson, also a Democrat, the new law stipulates that websites with 20,000 unique monthly visitors or more must inform visitors of how they're collecting and using personal information. Website owners that fail to do so can be hit with a \$5,000 fine for each violation fees that can add up quickly in a class-action lawsuit.

Under FCC regulations that would have taken effect this year following approval during the Obama administration, internet providers would have been prohibited from selling, storing,

sharing or collecting customer information without first obtaining consent. Barring specific prohibitions at the state level, Trump's repeal will continue to allow businesses to collect and distribute personal information by default.

Ford told the Nevada Independent in May that he introduced the bill as an emergency bill to counter the actions by Congress and Trump.

"[Keeping the FCC privacy regulations] would have been a big leap forward to help us in this digital age, but they rolled it back," Ford told the Independent. "So I pursued it on behalf of our consumers here."

The new law opens up website operators around the world to potential legal action, as violations are determined by the user's presence in Nevada, not the website operator's, according to the bill text.

The American Civil Liberties Union (ACLU) of Nevada strongly supported the bill when it was proposed. Both the Nevada branch and its national parent organization decried the FCC's repeal as an affront to basic expectations of privacy on the web. Michael Macleod-Ball, the ACLU's chief of staff in Washington D.C., described the repeal as a "slap in the face" to privacy advocates.

"There is no defensible justification for such a move and the speed with which the action is being taken belies the naked political calculation at play," Macleod-Ball said in a statement.

Tod Story, executive director at the ACLU of Nevada, said states should be proactive to define their own online privacy protections.

"It seems to me that until there is a new administration, and a Congress that supports the previous FCC rulings and decisions, it's going to be left up to the states to protect their citizens' privacy. And certainly, to require more transparency and disclosure from internet providers and websites," Story said. "That is clearly what Nevada was attempting to do in reaction to the actions of Congress, the FCC and the Trump administration."

Since the federal repeal, dozens of states have worked to propose or pass some form of online privacy laws that protect their residents.

In Washington, House Bill 2200 and Senate Bill 5919 are currently going through committee that would require internet service providers (ISPs) to obtain consent before personal information could be distributed online. Further, the law would prohibit ISPs from denying service if a resident refuses to agree to their terms and conditions that allow data sharing or selling.

Connecticut, Illinois, Maryland and Kansas have their own similar proposals.

In states still waiting for explicit privacy protections, Story recommended to the public the use of technical measures like virtual private networks (VPNs), anonymous browsing software like Tor, and tracking detection software.

“To me, I think we’ve seen the erosion of privacy over the last few years and in every iteration that you can possibly imagine related to the internet,” Story said. “So consumers are having to adopt their own tactics to deal with that new reality.”

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Program is to encourage and assist entrepreneurs by providing a waiver of state filing fees, state permit fees, or state licensing fees associated with the formation of a small business in this state.

- (a) There is created a program to be known as the "Entrepreneur Fee Waiver Pilot Program".
- (b) The program shall be developed, implemented, and administered by the Arkansas Development Finance Authority.
- (c) The purpose of the program is to encourage and assist entrepreneurs by providing a waiver of state filing fees, state permit fees, or state licensing fees associated with the formation of a small business in this state.
- (d) As used in this section, "entrepreneur" means an individual starting a small business and who meets the eligibility criteria established by the authority for the program.
- (e) The authority shall promulgate rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to establish criteria for the review and approval of applications for the program.
- (f) An entrepreneur shall apply to the authority, using the form prescribed by the authority, before the formation of the small business for which the entrepreneur seeks waiver of the state filing fees, state permit fees, or state licensing fees.
- (g) Any waivers or vouchers under this section shall be provided in the manner determined by the authority.
- (h) The total amount waived by the authority under this section shall not exceed five hundred thousand dollars (\$500,000) per fiscal year.
- (i) The Secretary of State shall provide notice of the Entrepreneur Fee Waiver Pilot Program to an entrepreneur filing for the formation of a small business in this state.

**Status:** Became law on April 3, 2017

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

A bill to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, computation, and exemptions from state income taxation, so as to provide tax credit incentives to promote the revitalization of vacant rural Georgia downtowns by encouraging investment, job creation, and economic growth in long-established business districts; to provide for definitions; to delineate procedures, conditions, eligibility, and limitations; to provide for powers, duties, and authority of the commissioner of community affairs, the commissioner of economic development, and the revenue commissioner; to provide for related matters; to provide for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

**Status:** Became law on May 8, 2017

**Comments:** From [Donalsonville News](#) (May 8, 2017)

The RURAL (Revitalizing Underdeveloped Rural Areas Legislation) bill, HB 73, signed recently by Governor Nathan Deal, is a comprehensive package that integrates multiple resources to help build new opportunities for rural economic development. The legislation offers incentives for job creation, commercial investment, and business activity in rural downtown areas through a series of tax credits: a job tax credit, an investment credit and a rehabilitation credit.

“These state and federal programs are the greatest opportunity for small rural communities that I have seen in 25 years. Now is the time for people to come together to pave the way for the future to make our town and county the best it can be,” commented Karen Kimbrel, President of the Donalsonville-Seminole-County Chamber of Commerce

“While landing a big corporate prospect is not unheard of, economic growth in a rural area is much more likely to be organic,” said Camila Knowles, Commissioner of Georgia’s Department of Community Affairs. “This gives us the tools to encourage rural residents to take a chance and open that coffee shop or flower shop they’ve always dreamed of running.”

The RURAL bill targets rural downtown areas that have been adversely impacted by local economic conditions by creating Rural Revitalization Zones and offering economic development incentives. It differs from other programs at DCA which provide technical assistance and access to capital because it would establish an incentive program to stimulate investment, job creation, and economic development. It also adds in retail opportunities, which are currently excluded from job tax credits. Further, multiple sources can benefit – for instance, a single new coffee shop might provide job tax credits for the local business owner, an investment credit to an urban investor and a rehabilitation credit to a local contractor.

The Job Tax Credit (JTC) will be \$2,000 per new full-time equivalent job per year, up to five years and not to exceed \$200,000 total or \$40,000 per year. New full-time equivalent job means an aggregate of employee worked hours totaling 40 hours per week between two or more employees. This credit is for the small business owner who opens a storefront and creates jobs. The Investment Credit is equivalent to 25% of the purchase price, not to exceed \$125,000 total or \$25,000 per year. This credit is for people who purchase a building downtown and cannot be taken unless jobs are created and JTC is taken.

The Rehabilitation Credit is equivalent to 30% of the qualified rehabilitation, not to exceed \$150,000 total or \$30,000 per year. This credit is to offset development costs associated with the rehabilitation of a certified investor property.

“Our goal is to bring development activity back to our rural downtowns, and draw people back to the heart of their communities,” Knowles said. “We want to focus resources on shoring up what’s really special about Georgia – the charm, history and sense of community of our rural downtowns.”

Similar to other incentive programs (i.e., Opportunity Zones and Tourism Development Act) this program will be the joint responsibility of the Georgia Department of Community Affairs and the Georgia Department of Economic Development. Both Commissioners will jointly review Revitalization Zone requests, and DCA will administer the program for approved areas. The bill’s fiscal impact is limited by the following:

- Rural Revitalization Zones must be approved at the discretion of Commissioners of DCA and Economic Development.
- The duration of the credits is five years.
- There is a sunset provision of 10 years for the legislation.

How many Opportunity Zones are there in Georgia?

There are currently 116 designated OZs located in 90 different communities in Georgia. There is a map with a list of Opportunity Zones on the DCA [website](#).

How many towns would qualify for these credits under the RURAL bill?

There are 473 towns in Georgia with a population of 15,000 or less, but in addition to meeting the population criteria, to be eligible for any of these tax credits, a town would also need to be in a Revitalization Zone and demonstrate evidence of economic distress.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

( ) Include in Volume  
( ) Include as a Note  
( ) Defer consideration:  
    ( ) next SSL meeting  
    ( ) next SSL cycle

( ) Reject

Comments/Note to staff

02-39A-09     Prisoner Entrepreneur Education Program  
Bill/Act: [H.B. 698](#)

Illinois

**Summary:**

Amends the Unified Code of Corrections. Creates the Prisoner Entrepreneur Education Program Law. Provides that the Prisoner Entrepreneur Education Program shall be established as a 5-year pilot project to be instituted within the Department of Corrections. Provides that the goal of the Prisoner Entrepreneur Education Program is to provide inmates with useful business skills for use after release from prison in an effort to reduce recidivism rates for self-motivated individuals.

Provides that the Prisoner Entrepreneur Education Program shall consist of a rigorous curriculum, and participants shall be taught business skills, such as computer skills, budgeting, creating a business plan, public speaking, and realistic goal setting. Provides that inmates who successfully complete the Prisoner Entrepreneur

Education Program shall be awarded a Certificate of Completion. Establishes eligibility requirements for the Program. Provides that subject to appropriation by the General Assembly, the Prisoner Entrepreneur Education Program may establish post-release assistance to individuals awarded a Certificate of Completion.

Provides that post-release assistance may include drafting a resume and cover letter, searching for employment, networking events, or mock interviews. Provides that the funding for the Prisoner Entrepreneur Education Program shall be from moneys appropriated to the Department of Corrections for this purpose. Provides that the Article is repealed 5 years after its effective date. Effective immediately.

**Status:** Became law on August 24, 2017

**Comments:** From [Riverbender.com](#) (August 25, 2017)

House Bill 698 creates the Prisoner Entrepreneur Education Program Law. This bill initiates a 5-year pilot project that allows offenders to gain entrepreneurial skills while incarcerated so they can be equipped for success upon release. Participants will be taught business skills such as computer skills, budgeting, creating a business plan, public speaking and realistic goal setting. Those who successfully complete the program will be awarded a certificate of completion. Additionally, the program may establish post-release assistance to individuals who receive a certificate. To participate in the program, offenders must never have been convicted of a major sex offense, vulnerable victim sex offense or child pornography.

"It is important for our state to do all it can to create opportunities for ex-offenders to be productive and successful citizens," said Rep. Justin Slaughter. "HB698 is a first of its kind initiative in Illinois that will spark entrepreneurship amongst ex-offenders and stimulate our economy."

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

An act relating to economic diversification; providing for an economic diversification council to oversee and promote economic diversification activities in the state; providing for the development of a comprehensive economic diversification policy and strategy; providing for business development and innovation zones; specifying duties of the council and executive department in regard to implementation of the policy and strategy; providing for a coordinator of economic diversification; providing legislative findings and specifying intent; creating an account; providing an appropriation; specifying use of funds; and providing for an effective date.

**Status:** Became law on March 6, 2017

**Comments:** From [Governor Mead](#) (March 6, 2017)

**CHEYENNE, Wyo.** – Governor Matt Mead signed the ENDOW Initiative bill into law Friday, March 3. In November, Governor Mead announced the ENDOW (Economically Needed Diversity Options for Wyoming) Initiative, a long-term planning effort for economic diversification. The bill, Senate File 132, establishes an executive council to oversee the development and implementation of a comprehensive and coordinated economic diversification strategy, requires the Governor to designate a coordinator of economic diversification, and creates an economic diversification account.

“The idea to diversify Wyoming’s economy isn’t new and has been discussed for decades,” said Governor Mead. “What sets this initiative apart from those efforts is its approach, first establishing a strategy and second sustaining the effort over time through action and evaluation. With the passage of this bill, we must now execute. I am pleased to have the support of the legislature in seeing the need for this initiative and helping to put the plan into action.”

“For years, people in Wyoming have talked about the importance of diversifying our state’s economy. The time for talk is over,” said Senate President Eli Bebout. “The ENDOW initiative delivers action and a bold, long-term commitment to Wyoming’s future. By strengthening cooperation between the executive and legislative branches of government, we can ensure that Wyoming’s legislative efforts work for Wyoming families and young people year round. I am confident that ENDOW will maximize results for Wyoming’s future economic growth and prosperity.”

“The future generations of Wyoming community leaders, business owners and stewards of our land remain at the forefront of all that we have done this legislative session,” said House Speaker Steve Harshman. “ENDOW is a critical component of this work, positioning us to invest in Wyoming’s young people and empowering them to build a career right here at home. Be it through job training, business recruitment or enacting policies that can cultivate new industries and expand others, the legislature is proud to partner with Governor Mead on the ENDOW initiative.”

Governor Mead and Greg Hill, President and Chief Operation Officer of Hess Corporation and a University of Wyoming graduate, will co-chair the ENDOW Initiative.

In compliance with the new law, Governor Mead has appointed Jerimiah Rieman as the coordinator of economic diversification to oversee the ENDOW Initiative. The Governor expects to appoint the executive council in early April.

To find out more information, keep up to date on the program, or to provide your input on ENDOW, visit [www.endowyo.biz](http://www.endowyo.biz).

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

(1) Authorizes electric cooperatives to provide broadband internet access or related services. Under the Rural Electric and Community Services Cooperative Act in present law, cooperatives are authorized to provide telephone, telegraph, and telecommunications services. This bill adds the provision of broadband internet access to the services that a cooperative may provide. This bill adds that any of the services that may be provided pursuant to the Act, including broadband internet access, outside the service area of the cooperative requires the permission of any municipal electric plant or cooperative in whose service area the services will be provided. This bill also requires that any of the authorized services be furnished on an area coverage basis. Generally, the provision of broadband internet services will be subject to the same present law provisions that apply to the provision of telephone, telegraph, and telecommunications services by a cooperative;

(2) Requires cooperatives that elect to provide any of the above-described services to:

- (A) Grant to other providers of such services non-discriminatory access to locate such other providers' equipment on infrastructure or poles owned or controlled by the cooperative; and
- (B) Administer, operate, and maintain its electric system as a separate department; establish a separate fund for the revenue from the electric operations; and not mingle electric system funds or accounts, or otherwise consolidate or combine the financing of the electric system with those of any other of its operations;

(3) Adds to the provisions governing the provision of authorized services, other than electrical, that it is unlawful for a cooperative to use unfair or anticompetitive practices prohibited by any applicable state or federal law; and authorize a person who has been damaged as a result of a violation of those provisions to bring a civil action for injunctive relief.

(4) Creates a franchise and excise tax credit of 6 percent of the purchase price of qualified broadband internet access equipment placed in to service in a Tier 3 or Tier 4 enhancement county. The credit taken on any franchise and excise tax return must not exceed 50 percent of the combined franchise and excise tax liability shown by the return before the credit is taken. Any unused credit may be carried forward in any tax period until the credit is taken. However, the credit may not be carried forward for more than 15 taxable years. The total amount of credit provided to all taxpayers must not exceed \$5 million for any calendar year;

(5) Authorizes the commissioner of economic and community development to establish and administer a broadband accessibility grant program, and establishes the broadband accessibility fund. The fund will be subject to appropriations by the general assembly as well as gifts, grants, and other donations made for the program or fund. The program will be administered pursuant to policies developed by the department. The policies must provide for the awarding of grants to political subdivisions or entities of political subdivisions, corporations, limited liability companies, partnerships, or other business entities that provide broadband services; cooperatives organized under the Rural Electric and Community Services Cooperative Act or the Telephone

Cooperative Act, and any other entity authorized by state law to provide broadband services. Grants must be awarded pursuant to criteria developed by the department of economic and community development, with priority given to projects that:

- (A) Serve locations without access to download speeds of at least ten megabits per second (10 Mbps) and upload speeds of at least one megabit per second (1 Mbps);
- (B) Propose to acquire and install infrastructure that supports broadband services scalable to higher download and upload speeds. However, this priority will not take precedence over serving a greater number of locations or larger area;
- (C) Serve locations with demonstrated community support, including, but not limited to, documented support from the political subdivision or the political subdivision receiving designation as a broadband-ready community (discussed below); and
- (D) Have not received funds through other state or federally funded grant programs designed specifically to encourage broadband deployment.

(6) Authorizes the department to award a portion of the above-described grant funds to local libraries in this state for the purpose of assisting the libraries in offering digital literacy training pursuant to state library and archives guidelines; and restricts the amount of the fund that may be used for the expenses of administering the program to no more than 5 percent;

(7) For any year in which grants are distributed under the program, requires the department to produce a report on the status of grants under the program, including progress toward increased access to and adoption of broadband services. The report must be provided to the governor, speaker of the house of representatives, and speaker of the senate and published on the department's website;

(8) Authorizes a political subdivision to apply to the department of economic and community development for designation as a "broadband-ready community" pursuant to guidelines established by the department. The guidelines for designation must include a requirement that the political subdivision has adopted an efficient and streamlined ordinance or policy for reviewing applications and issuing permits related to projects relative to broadband services. This bill details other items that the ordinance or policy must contain; and

(9) Specifies that a political subdivision will not receive the "broadband-ready community" designation if the ordinance or policy:

- (A) Requires an applicant to designate a final contractor to complete a project;
- (B) Imposes an unreasonable fee for reviewing an application or issuing a permit for a project. A fee that exceeds \$100 is unreasonable for the purposes of this provision;
- (C) Imposes a seasonal moratorium on the issuance of permits for projects; or
- (D) Discriminates among communications services providers or utilities with respect to any action related to a broadband project, including granting access to public rights-of-way, infrastructure and poles, and any other physical assets owned or controlled by the political subdivision.

ON APRIL 3, 2017, THE SENATE ADOPTED AMENDMENT #1 AND PASSED SENATE BILL 1215, AS AMENDED.

AMENDMENT #1 revises various provisions of this bill, as follows:

- (1) Revises the minimum speeds referenced in regard to the broadband services, the deployment and adoption of which will be promoted by the grants under this bill, to be 10 Mbps instead of 25 Mbps for download speeds and 1 Mbps instead of 3 Mbps for upload speeds;
- (2) Revises the projects described above in the bill summary under (5)(D) to add projects that have not been designated to receive funds and to add that the projects must be in an area within a location without the minimum speeds described in this bill. This amendment also adds projects that will provide higher download and upload speeds of broadband service to the locations served;
- (3) Requires TACIR to study and prepare a report updating its January 2017 Report on Broadband Internet Deployment, Availability, and Adoption in Tennessee, which must be delivered to the general assembly by January 15, 2021; and
- (4) Authorizes, under the Rural Electric and Community Services Cooperative Act, a cooperative to provide voice over internet protocol services; removes the requirement that a cooperative providing telephone, telegraph, voice over internet protocol, or other telecommunications services do so on an area coverage basis; authorizes cooperatives to provide broadband internet access, internet protocol-based video, video programming, or related similar services, and requires that such services be provided on an area coverage basis and operated as a separate subsidiary; and specifies that a cooperative providing cable service or video service must comply with the requirement to obtain a franchise as set forth in the Competitive Cable and Video Services Act of present law.

**Status:** Became law on March 30, 2016.

**Comments:** From [Clarksville Online](#) (April 16 2017)

Nashville, TN – Tennessee Governor Bill Haslam praised the passage of the Tennessee Broadband Accessibility Act, the governor’s legislation to increase broadband access to Tennessee’s unserved citizens.

The House of Representatives passed HB 529/SB 1215 by a vote of 93-4, and it now heads to the governor’s desk for signature. The Senate passed the legislation 31-0 on April 3rd. Tennessee currently ranks 29th in the U.S. for broadband access, with 34 percent of rural Tennessee residents lacking access at recognized minimum standards.

More than 800,000 Tennesseans don’t have access to broadband, and one in three businesses identified it as essential to selecting their location. Spurring deployment in our rural, unserved areas will open them up to economic investment and growth.

This legislation provides a reasonable, responsible path to improve broadband access through investment, deregulation and education.”

The Tennessee Broadband Accessibility Act provides \$45 million over three years in grants and tax credits for service providers to assist in making broadband available to unserved homes and businesses.

In addition, the plan will permit Tennessee's private, nonprofit electric cooperatives to provide retail broadband service and make grant funding available to the state's local libraries to help residents improve their digital literacy skills and maximize the benefits of broadband.

#### New Legislation continues Health Benefits for Families of First Responders Killed in Line of Duty

House Republicans advanced legislation this week that continues health coverage to families of first responders killed in the line of duty.

Under House Bill 466, spouses and children of full-time police officers, firefighters, and other first responders who are killed in the line of duty would receive health benefits for a period of two years following the death of their loved one.

Family members of fallen Tennessee Highway Patrol (THP), Tennessee Bureau of Investigation (TBI), and Tennessee Wildlife Resources Agency (TWRA) officers would also be covered under this legislation.

The bill will be heard by the Finance, Ways & Means Subcommittee next week.

Completing the path for all Tennesseans to access higher education, the Tennessee Reconnect Act establishes a last-dollar scholarship for adults to attend a community college tuition-free. House Bill 531, which passed on the House floor on Thursday, April 13th, expands a grant program launched in 2015 that aimed to attract approximately 900,000 Tennesseans who have earned some college credit but no degree.

Adults without a certificate can already attend Tennessee Colleges of Applied Technology (TCATs) tuition-free under the current Reconnect program. This proposal would expand that program's access to community colleges and relieves some of the previous requirements to receive assistance. The Reconnect expansion would be funded out of lottery reserves at no cost to taxpayers.

Tennessee Reconnect is a tremendous investment in the state's economy. It not only gives adults new opportunities for career growth, but also provides employers with the skills and credentials they are seeking from the workforce.

To be eligible for Tennessee Reconnect, a student must be a Tennessee resident for at least one year preceding the date of application and does not already have an associate or bachelor degree. Other requirements include completion of the Free Application for Federal Student Aid (FAFSA) where the applicant is deemed an independent student; participation in an approved advising program; and enrollment in any of the state's 13 public community college's degree or certificate programs for six semester hours.

In order to maintain the Tennessee Reconnect grant, the student must enroll in classes leading to an associate's degree or certificate continuously and maintain at least a 2.0 GPA. The program will begin with the 2018-19 school year upon approval of the legislation.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

An act relating to electronic documents; establishing provisions relating to electronic wills and trusts; revising provisions governing electronic notaries public; authorizing electronic notaries public to perform authorized electronic notarial acts remotely using audio-video communication; establishing provisions concerning electronic documents relating to real property located in this State; authorizing the Secretary of State to require notaries public registering as electronic notaries public to complete an online course on electronic notarization; increasing the amount of the fees authorized to be charged by an electronic notary public for the performance of certain electronic notarial acts and authorizing the collection of a fee to recover certain costs; and providing other matters properly relating thereto.

**Status:** Became law on June 6, 2017

**Comments:** From [National Law Review](#) (July 5, 2017)

One of our favorite topics is digital assets, including estate planning for digital assets. Today, we're taking a slightly different focus and discussing developments in digital estate planning, more commonly known as electronic wills.

One of the more recent developments in estate planning is the concept of electronic wills. In general, an electronic will is one that is signed and stored electronically. Instead of signing a hard copy document in ink, the testator electronically signs the will, and it is also signed by witnesses and notarized electronically. Not surprisingly, companies like LegalZoom are very interested in this topic.

Although the use of electronic wills may seem like a foregone conclusion in our increasingly digital world, Nevada is currently the only state that allows electronic wills. That may be changing though, as the Uniform Law Commission has recently formed a committee to draft a uniform law on the formation, validity, and recognition of electronic wills. According to the Uniform Law Commission's website, the electronic wills committee may also "seek expansion of its charge to address end-of-life planning documents such as advance medical directives or powers of attorney for health care or finance." Not to be left behind, the Trust and Estate Section of the Colorado Bar Association also recently formed a committee to study this topic and make recommendations.

Florida's recent experience with electronic wills suggests that drafting effective legislation may be a difficult process. Although the Florida senate unanimously passed the Electronic Wills Act, Governor Rick Scott vetoed the legislation. Governor Scott cited a number of reasons for his veto, including that the remote notarization provisions in the act did not offer adequate protection for testators. It will be interesting to see how the Florida legislature reacts and what the revised version of the act looks like.

Despite Florida's setback and the lack of current legislation on electronic wills, the concept is not going away and they are sure to be a hot topic for estate planners in the coming years. And once electronic wills become common and start being probated, they are sure to be a hot topic for estate litigators as well.

**Comments:** From [The Indiana Lawyer](#) (October 18, 2017)

Indiana law treats the signatures on a will with more reverence than any other, laying out the precise time-tested requirements needed to authenticate a document that will outlive and speak for the person who puts ink to paper.

But in an increasingly digital world, the legal ritual of a person signing a last will and testament before two witnesses who attest to the signer's capacity may be evolving. Lawmakers next year will consider a proposal to allow electronic signatures on wills and other trust and estate documents.

The Indiana State Bar Association's Section on Probate, Trust and Real Property has been working for the better part of a year on the proposals after the General Assembly floated draft legislation in this year's session. Estate lawyers had concerns, though, and vowed to return with a proposal for the 2018 session after more thorough vetting and scrutiny.

A 25-member task force studied the issue "to develop a reasonable and sensible approach to utilize current and future technology advances as well as protecting Hoosiers with sound parameters or standards," section chairwoman Mary Slade said in an email.

"This is not an easy task because many states are in the throes of reviewing recent and upcoming uniform law approaches to these topics as well as modifying these approaches for their particular jurisdiction," Slade said. Fraud prevention, identity validation, document preservation, and the risks and flaws of certain technology are among the considerations in developing a proposed e-signature law for wills, she said.

Frost Brown Todd LLC partner Jeff Dible chairs the section's task force that has been dealing with electronic signatures. He said the group will propose an entirely new section of the Indiana Code specifically covering the requirements for electronic signatures on wills. This way, the e-signing requirements would be in one place in the code for people who wish to use the new option without disturbing the traditional signing requirements found in I.C. 29-1-5-3.1.

The task force also will recommend legislation permitting e-signing on trust instruments, powers of attorney, and electronic notarization, Dible said.

### **Proceed with caution**

While a proposed electronic will signature law would expand the reach of technology into the execution of wills, Dible said the task force didn't want to change the law's requirements for signing and in-person witnessing by two independent parties. "The task force decided at least for now that Indiana should not allow remote witnessing of a will," Dible said. "There's too great a possibility someone could be an impostor."

Dible said Nevada is the only state to date that has permitted electronic signatures on wills, though Indiana and a handful of other states considered such legislation this year. Nevada permits remote witnessing, he said.

Dible and other task force members said that as more documents in general are electronically created, signed, filed and stored, wills eventually also will move in that direction. Members also said technology to authenticate and prove the identity of e-signatures and prevent document tampering has long been available and used in other contexts such as contracts.

“There’s no resisting it,” said task force member Paul G. Crowley of Butler & Crowley in South Bend. “It’s coming sooner or later, and what we wish to do is control the conversation. … There is just absolutely no way to ignore the fact that electronic signatures are here.”

But Crowley said the task force didn’t feel comfortable with remote witnessing. He, Dible and others had concerns that remote witnessing could create problems and be a boon for litigators, even if the remote witness observed the will signing via video.

For example, Crowley said, “If you’ve got a testator, maybe on a screen in front of you with both audio and visual, if the witness is not in the room with testator, how are they going to be able to judge voluntary and intentional acts as opposed to something done under duress from somebody not visible just off the screen?”

Crowley said the law proposed by the task force would capture and store the electronic signatures of the testator and witnesses, along with proof in an accompanying certificate and metadata certifying that the electronic signatures were collected at the same time and place.

Lake Superior Judge Diane Kavadias Schneider said judges might give e-signed wills a bit more scrutiny, but e-signatures have become an accepted practice in many other areas of law. “You have to look at the totality of circumstances — who has the document, who’s bringing it in,” she said. While issues concerning the validity of a will do arise, “It’s very rare we have problems or issues,” she said.

Crowley said he’s proud of the task force’s work. “This may be a template for the rest of the country to look at as far as developing electronic signatures,” he said. Schneider agreed. “Indiana doesn’t always get credit, but we’re on the cutting edge often.”

While Indiana may be ahead of the curve, Dible said most clients and attorneys will continue to insist on a traditional drafting of what many consider their most valuable document. “There is not a great groundswell of demand among the general public to sign wills electronically,” he said.

### **Will e-filing rule update**

Separately, the Indiana Supreme Court is expected to consider rule changes concerning what to do with original wills that have been filed for probate as Indiana trial courts move past paper filing and toward mandatory e-filing.

The comment period for an amendment to Trial Rule 86(F) closed earlier this month. Supreme

Court spokeswoman Lindsey Borschel said the Rules Committee hopes to review the proposed rule changes this month, and the timing of any action by the court would depend on the committee's progress.

The proposed amendment came as courts grappled with the undefined requirements for e-filing an original will that resulted in varied practices from county to county. The rule as proposed would require someone e-filing a will for probate to file "a complete and accurate copy of the will and an affidavit" swearing:

- That the person filing possesses the decedent's original will or that it has been deposited with the court clerk;
- That the person is filing a true and accurate copy of the will;
- That unless the will has been filed with the clerk, the person filing will retain the original will until the estate is closed and the personal representative is relieved from liability, or the time to contest a will has expired, whichever is later, and;
- The person will file the original will upon a court order or as otherwise directed by statute. •

**Comments:** Additional information from the [Uniform Law Commission](#)

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

**Summary:**

- Permits any online lodging marketplace to register with DOR for the payment of taxes levied by the state and municipalities with respect to any online lodging transaction facilitated by the online lodging marketplace.
- Requires any online lodging marketplace that has registered with DOR to remit the applicable taxes with respect to each online lodging transaction facilitated by the online lodging marketplace.
- Requires a registered online lodging marketplace to report its taxes monthly and remit the aggregate total amounts for each respective jurisdiction for each month.
- Stipulates that an online lodging marketplace does not need to list any online lodging separately on the monthly TPT returns.
- Requires any registered online lodging marketplace to remit the tax imposed pursuant to the commercial lease classification for each online lodging transaction that involves a lease or rental for consideration of the right to use or occupy real property for 30 or more consecutive days.
- Requires any registered online lodging marketplace to remit the tax imposed pursuant to the transient lodging classification for each online lodging transaction that involves a lease or rental of transient lodging.
- Specifies that the commercial lease and transient lodging classifications do not include the activities of any online lodging marketplace.
- Requires the gross proceeds or gross income received by an online lodging operator from any online lodging transaction for which the online lodging operator has received written notice or documentation from a registered online lodging marketplace that it has or will remit the applicable tax with respect to those transactions to DOR to be deducted from the tax base under the commercial lease and transient lodging classifications.
- Allows a city, town or other taxing jurisdiction to levy TPT, use, franchise or other similar tax or fee as provided by the Model City Tax Code on online lodging operators subject to the following:
  - 1) the adopted tax must be consistent with the state tax treatment of online lodging operators and online lodging transactions;
  - 2) the adopted tax must be administered, collected and enforced by DOR and remitted to the city, town or other tax jurisdiction in a uniform manner;
  - 3) the adopted tax must be uniform upon online lodging operators and other subjects of the same class within the jurisdictional boundaries of the city, town or other taxing jurisdictions;
  - 4) any adopted tax must be subject to provisions regarding the auditing, judicial enforcement and registration relating to online lodging marketplaces; and
  - 5) prohibits online lodging operators from being subject to tax for any online lodging transaction for which an online lodging operator has received written notice or documentation from an online lodging marketplace that it has or will remit the applicable tax.

- Classifies real and personal property and improvements that are used for online lodging transactions as class four, except for: o property occupied by the owner of the property as the owner's primary residence and included in class three; and o property used for commercial purposes and included in class one.
- Stipulates that an online lodging marketplace, its returns and payments of taxes to DOR are subject to audit only by DOR at its sole discretion.
- Requires audits of an online lodging marketplace to be conducted solely on the basis of the online lodging marketplace tax identification number and cannot be conducted directly or indirectly on any individual online lodging operator or any occupant to whom lodgings are furnished through an online lodging marketplace.
- Stipulates that an online lodging operator is not required to disclose any personally identifiable information relating to any online lodging operator or occupant to whom lodgings are furnished in exchange for occupancy.
- Prohibits DOR from disclosing information provided by an online lodging marketplace without the written consent of the online lodging marketplace.
- Defines terms.
- Makes technical and conforming changes.
- Becomes effective on January 1, 2017.

**Status:** Signed into law on May 12, 2016.

**Comments: From Arizona [Governor's Office](#) (April 25, 2016)**

Governor Doug Ducey and Airbnb today announced an official agreement between the online home sharing company and the Arizona Department of Revenue on the reporting and paying of taxes on behalf of Airbnb hosts. The agreement furthers the governor's vision of embracing new, 21st century business models in the sharing economy that benefit all Arizonans.

“This groundbreaking agreement is a signal to entrepreneurs across the U.S. that Arizona is a state that empowers innovative companies like Airbnb to set up shop and expand their operations,” said Governor Ducey. “Making it easier for companies to service Arizonans without jumping through an outdated tax and regulatory system is a win for everyone. It helps our economy grow, these companies expand, and the thousands of Arizonans who are benefiting from this new and exciting economy thrive.”

In January 2017, Airbnb will begin to electronically file and pay the state and local transaction privilege taxes due on behalf of its customers in Arizona. By doing so, the company will save its customers the time and cost of filing complex tax returns; maximize tax revenue due to state and local governments from home sharing activities, and spare the Arizona Department of Revenue the cost of manually processing hundreds, if not thousands, of paper returns on a monthly basis. This type of agreement is available to other companies operating in the home sharing industry.

“Serving taxpayers is the Department of Revenue’s mission,” said David Briant, Director of the Arizona Department of Revenue. “Streamlining the filing and payment of taxes for innovative companies is more efficient, more secure, and helps our state operate at the speed of business. We appreciate Airbnb’s leadership in making these improvements a priority in Arizona.”

"Today represents an important step forward for the thousands of Arizonans who share their homes on Airbnb," said Laura Spanjian, Airbnb Public Policy Manager. "Thanks to this agreement, Airbnb will now be able to help hosts streamline their tax payments and ensure compliance. We thank the governor and State of Arizona for their vision and partnership in embracing the sharing economy."

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-01     Changes the Laws Regarding Job Training  
Bill/Act: [HB 93](#)

Missouri

**Summary:**

The bill establishes four adult high schools to be operated by a Missouri nonprofit organization. An “adult high school” is defined as a school for an individual who is at least 21 years old without a high school diploma, offers industry certification programs that include a high school diploma and provides on-site child care for students.

**Status:** Passed on July 5 2017.

**Comments:** From the [St. Louis Post-Dispatch](#) (July 5, 2017)

**JEFFERSON CITY** - Missouri soon could have four schools for adults seeking to get their high school diplomas.

Under a new state law, the Missouri Department of Elementary and Secondary Education will get the power to authorize a nonprofit that would start the schools for residents over 21.

One of the schools would be situated in St. Louis. Others would be in or near Butler, Greene and Boone counties.

The goal of the program is to give adults an opportunity to receive a diploma, rather than a high school equivalency certificate. During debate on the measure by Missouri lawmakers this year, supporters said they believed employers were more favorable to job candidates who had diplomas.

The schools would offer job training programs, industry certification and on-site child care.

The plan would allow the state to select a nonprofit to run the schools. The organization would have to invest \$2 million of its own funds for facilities.

The schools will be the first adult high schools in Missouri, according to the education department, which administers grants to many basic adult education, English as a second language and high school equivalency programs throughout the state.

It will probably take the department “several months” to choose a nonprofit through competitive bidding, according to a department spokeswoman.

According to U.S. Census estimates, about 12 percent of Missouri adults 25 and older from 2011 to 2015 were not high school graduates.

In a statement, Missouri Chamber of Commerce and Industry director Daniel Mehan said the program would be effective.

“With workforce challenges remaining a top concern of Missouri employers, it’s critical that we are doing everything we can to empower our citizens to get themselves ready for work,” Mehan said.

The measure, which was signed into law Wednesday by Gov. Eric Greitens, received widespread support in the House, where it was approved on a 136-8 vote. It was endorsed in the Senate 27-6.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Relating to public school transportation; amending the public School code to allow certain school districts to transport certain students by alternative means of transportation; Making conforming changes to the definition of "school bus" in the motor vehicle code.

**Status:** Became law on April 6, 2017

**Comments:** The [Eastern New Mexico News](#) (March 5, 2017)

Rural school districts in the area have carefully weighed the pros and cons of a bill currently traveling through the New Mexico legislature that would allow for the replacement of buses with much smaller vehicles in certain situations.

Senate Bill 381, currently awaiting a third reading on the senate floor, states that school districts may utilize district-owned sport utility vehicles in place of school buses to transport one to six students "whose residence, within the boundaries of the school district, is five or more miles from the student's or students' school or schools," according to the bill's legislation.

Grady Municipal Schools Superintendent Ted Trice said he was in support of any legislation that could save his district the cost of fuel for buses, but noted that SUVs are not as distinctive as buses are, and thus could prove to be a safety concern.

"My only thought about that is that people see a yellow school bus, they notice and pay attention to it. If you're in a suburban that's not painted yellow, people aren't going to pay attention to that, so that may be a safety issue as far as people not paying attention to a vehicle full of kids," said Trice.

Because of a high volume of young children who require car seats, Melrose Municipal Schools Superintendent Jamie Widner said the bill would not be viable for his district.

"The problem that's gonna arise is very little kids that are on our routes are gonna have to have booster seats, and you're gonna have to have car seats. It's just not feasible for us. We're gonna continue using school buses," he said, adding that most of his bus routes have more than six riders.

"For us, we're gonna have more than will fill a suburban on every one of our routes, and that's where the rub is going to come for us. Even on a day when we may just have six or seven on a route, it's still gonna be a hassle to get kids into the back seat and buckled in," he said.

Floyd Municipal Schools Superintendent Damon Terry noted the adaptability of SUVs to many of the rural roads in his district make them a choice he could support.

“I know buses are extremely safe and all that, but I know there are some instances that come up that it would be a lot wiser and a better use of our resources to use a suburban,” he said. “My ultimate thought is, any time we can gain local control and utilize our resources in a manner that’s best for our school, I’m in favor of that.”

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-03     Legislative Task Force on Workforce Education Excellence     Arkansas  
Bill/Act: [SB 441](#)

**Summary:**

An act to create a legislative task force to review technical and workforce education programs and recommend ways to align technical and workforce education programs to produce an efficient, technologically advanced technical and workforce education system; and for other purposes.

**Status:** Passed on April 6 2017.

**Comments:** This bill creates a legislative task force tasked with reviewing technical and workforce education programs and making recommendations in order to produce an “efficient, technologically advanced technical and workforce education system.” Some of the key components the bill asks the taskforce to focus on include reviewing the current and future workforce needs of Arkansas, researching how to meet those future workforce needs, researching methods to reduce skill shortages, create alignment among educational and career pathways such as work-based learning opportunities and apprenticeship programs, and to create region-specific prioritized occupations and skills.

This bill is a step toward Arkansas creating specific methods to meet the needs of the Arkansas workforce and local economy. It is an effort to create consistency among institutions of secondary and higher education and the labor market. By identifying region-specific workforce needs, this legislation hopes to encourage region-specific solutions for a more cohesive and skilled workforce.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-05     Productivity-Based Funding Model for State-Supported Institutions of Higher Learning  
Bill/Act: [HVB 1209](#)     Arkansas

**Summary:**

An act to adopt a productivity-based funding model for state-supported institutions of higher education; and for other purposes.

**Status:** Became law on February 8, 2017.

**Comments:** This bill commissions the Arkansas Higher Education Coordinating Board to adopt policies necessary to implement a productivity-based funding model for state-supported institutions of higher education, with separate policies for two-year institutions and four-year institutions.

This bill moves Arkansas from enrollment-based funding to performance-based funding, which provides incentives for institutions of higher education to help students successfully complete degree programs. This allows states to align funding models with workforce needs and goals. Supporters of this funding model claim that it emphasizes student success and incentivizes institutions to place a priority on providing student support.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-06    Universal Preschool  
Bill/Act: [SB 954](#)

Connecticut

**Summary:**

Requires the State Department of Education, in consultation with the Office of Early Childhood, to develop a plan for universal preschool beginning in 2022, with the Department submitting its plan and recommendations to the General Assembly's Education Committee by January 1, 2019.

**Status:** Approved June 9, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

This act requires the banking commissioner, within available appropriations, to create the position of “student loan borrower ombudsman” in the Banking Department to provide timely assistance to “student loan borrowers” (borrowers). It establishes the ombudsman's duties and requires him or her, in consultation with the commissioner and within available appropriations, to implement and maintain a prescribed student loan borrower education course.

It also establishes a separate non-lapsing account in the Banking Fund, called the student loan ombudsman account, to be funded by student loan servicers' licensing and investigation fees and any other money required by law. The act requires the commissioner to use money in the account for the ombudsman position and the education course.

The act establishes licensure requirements and standards of conduct for student loan servicers. It exempts banks, credit unions, and certain of their subsidiaries from the servicer licensure requirements. The commissioner (1) must adopt regulations implementing the servicer provisions and (2) may conduct investigations and examinations and take enforcement action against violators.

The commissioner must also report annually, starting by January 1, 2016, to the Banking and Higher Education and Employment Advancement committees on, among other things, the implementation of the ombudsman position and the licensing and oversight of student loan servicers.

**Status:** Passed House on April 14, 2015.

**Comments:** This bill establishes an Office of Student Loan Ombudsman which regulates student loan servicers and educates students through the loan process. It requires student loan servicers to register with the Department of Banking and the Office of Student Loan Ombudsman in order to simplify the student loan process and to ensure accountability. This legislation also will create a student borrower education course to help improve students' financial literacy.

This bill was enacted in 2015 in an effort to combat the growing amount of student debt in Connecticut. According to data compiled by the Project on Student Debt, students in Connecticut were recorded as having the sixth highest debt-load in the nation. In an effort to lift the burden off students as well as to improve the economy, Connecticut was the first state to pass a “student loan bill of rights.” Several states have attempted to pass similar legislation since.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

03-39A-08     Innovative Education Programs  
Bill/Act: [SB 2186](#)

North Dakota

**Summary:**

An act to create and enact a new section to chapter 15.1-06 of the North Dakota Century Code, relating to the creation of an innovative education program; to amend and reenact section 15.1-06-08.1 of the North Dakota Century Code, relating to statutory waivers; and to provide for a report.

**Status:** Became law on April 4, 2017

**Comments:** From [Inforum](#) (March 28, 2017)

BISMARCK — The North Dakota House passed legislation Tuesday, March 28 allowing schools to participate in an "innovative education program," despite concerns that the bill hands too much authority to the executive branch.

Senate Bill 2186, backed by Superintendent of Public Instruction Kirsten Baesler, allows schools or school districts to apply to the superintendent for a waiver of certain chapters of state law or associated rules if the waiver will improve education delivery, improve the administration of education, provide students more educational opportunities or improve students' academic success.

The bill requires the superintendent of public instruction to provide annual reports to the Legislature on the innovative education program.

"In participating schools, students will no longer be constrained by some of the existing rules, they can experience learning at a personal pace with methods that lead to success and an easier transition to higher learning," said Cynthia Schreiber-Becker, R-Wahpeton.

Rep. Kim Koppelman, R-West Fargo, said he supported efforts to encourage innovation, but worried the bill would set a precedent that an executive branch official can "ignore" a law.

The bill, introduced by Sen. Nicole Poolman, R-Bismarck, passed the House in a 75-17 vote Tuesday. A different version of the bill sailed through the Senate unanimously last month.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-09    Civics Test Required for Graduation  
Bill/Act: [SB 32](#)

Alabama

**Summary:**

Relating to K-12 education; beginning with the 2018-2019 school year, to require students to successfully pass a civics test as a required component for completing the government course required in the high school course of study.

**Status:** Passed House on April 18, 2017.

**Comments:** This bill follows a recent trend of requiring a civics test to be administered as part of graduation requirements. The civics test used is the test used by the officers of the United States Citizenship and Immigration Services for purposes of naturalization. This is an effort to revitalize civic education and to encourage each student to be an informed member of society.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

This bill tasks the department of higher education and the department of education to prepare and submit a strategic plan to address teacher shortages. The plan must be submitted to the Colorado commission on higher education and the state board of education by December 1, 2017

**Status:** Became law on May 21, 2017.

**Comments:** [The Coloradan](#) (July 25, 2017)

A statewide teacher shortage has prompted a series of Colorado town halls, including a Friday event at Colorado State University, to get public input on the issue.

The events are part of efforts to implement [House Bill 17-1003](#), which was signed by Gov. John Hickenlooper in May and requires Colorado's Department of Higher Education and Department of Education to draft a joint action plan to recruit and retain high-quality educators.

The number of Colorado college and university graduates who completed a teacher preparation program declined by nearly 25 percent between 2010 and 2016, according to a 2016 legislative report on educator preparation in Colorado.

Some Colorado districts have struggled to fill teaching positions. Poudre School District is "faring better" than others but is still seeing fewer applicants for open teaching positions, according to Executive Director of Human Resources Vicki Thompson.

The [town hall series](#), which launched in Ridgway and Parachute last month, encourages district employees, parents, students and concerned community members to attend. Attendees will review existing research and discuss contributing factors to the shortage, including perceptions of education careers and compensation.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-11 Authorizing Public Charter Schools  
Bill/Act: [HB 520](#)

Kentucky

**Summary:**

This bill creates a public charter school project and identifies key requirements and components of public charter school applications. It allows local school districts to authorize an unlimited number of charter schools..

**Status:** Became law on March 21, 2017.

**Comments:** From [The Courier Journal](#) (March 22, 2017)

FRANKFORT, Ky. - Gov. Matt Bevin signed the hotly debated charter schools bill into law on Tuesday, according to the online legislative record.

Bevin's signature on House Bill 520 comes as no surprise, because the governor made the bill authorizing charter schools in Kentucky his top priority in the latter part of the legislative session, testifying for it before both the House and Senate education committees.

The bill was vigorously debated throughout the legislative session and in its final form ultimately passed the Senate 23-15 and the House 53-43.

It will allow local school districts as well as the mayors of Louisville and Lexington to authorize an unlimited number of charter schools, the first of which are not expected to open until the 2018-19 school year.

Proponents say charter schools will give some parents the choice to send their children to a school that better serves their children's needs and can boost the performance among poor and vulnerable students. But opponents say the new law will take money from underfunded traditional public schools and does not explicitly require charter schools to target underprivileged students.

The General Assembly also passed a bill which would transfer state and federal education funds to cover the costs of students at charter schools. But that bill, House Bill 471, was not yet signed by Bevin, according to the online legislative record as of mid-day Wednesday.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-12    Early Warning Pilot Program  
Bill/Act: [HB 404](#)

Utah

**Summary:**

This bill directs the State Board of Education to contract with a provider for a two-year pilot digital program that will help to identify students in need of early intervention.

**Status:** Became law on March 24, 2017.

**Comments:** This bill is a significant attempt by the state of Utah to use data-driven methods to identify students in need of an academic intervention at an early stage. This is a preventative effort to avoid a sharp decline in student performance, and to allow educators to identify students in need of extra support.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-13    Digital Citizenship, Media Literacy, and Internet  
Bill/Act: [SB 5449](#)

Washington

**Summary:**

This bill requires the office of the superintendent of public instruction to develop best practices and recommendations for instruction in digital citizenship and internet safety.

**Status:** Became law on April 20, 2017.

**Comments:** From [King5](#) (May 26, 2017)

Washington lawmakers recently approved new digital citizenship legislation that's among the first of its kind in the country.

The bill focuses on a new problem in the digital age: teaching kids what constitutes appropriate and responsible use of technology. That includes knowing what to post on social media as well as how to protect yourself online.

"Our students need to be prepared for this online era we're in. The pluses and minuses or it," said Senator Marko Liias, D-Edmonds.

Liias sponsored the legislation at the encouragement of Claire Beach, a retired teacher and longtime media literacy educator from Edmonds.

"This bill is so important because what it allows for is for conversations appropriate to age, appropriate for grade, to start in the classroom," said Beach. "I think it's a real game changer."

[Senate Bill 5449](#) directs the Office of the Superintendent of Public Instruction to conduct a statewide survey of teachers, librarians, principals, and school technology directors to determine how Washington schools are currently integrating digital citizenship and media literacy education in their curriculum.

"So we're going to survey school districts, find out who's doing what to educate their kids around these issues of digital citizenship and online safety, and then we're going to glean from that the best practices. We're going to find out what are the most innovative, what are the best ways of teaching students these skills," said Liias.

From there, the bill directs the Office of the Superintendent of Public Instruction to create a new website to share those resources and best practices with educators throughout the state. The purpose of the website is to provide easy access to information and links for curriculum materials that can be used in their classrooms.

Two recent cases making headlines in our area only highlight the need for more education when it comes to the ethical use of cell phones and social media.

Two members of the University of Washington's men's crew team are [under investigation](#) for sexual assault and for allegedly circulating a sexually explicit video of the victim.

On the Eastside, police seized the phones of a group of teenagers, including several Bellevue High School students, after an [alleged rape of an 8th grader](#) at a house party.

In both cases, according to court documents, the victims were unaware the cell phone images were taken. That's [against the law](#) in Washington.

"Part of it is telling students that story. Telling them that if you're spreading these kinds of images, here's the legal risk you're putting yourself into. I think it's important for young people to know that there are consequences to their behavior," said Liias.

Beach said it's crucial those lessons start at an early age, before kids are even given their first cell phone.

Liias hopes Senate Bill 5449 gives schools the tools they need to teach those lessons.

According to [Media Literacy Now](#), this new legislation is leading the way in the effort to integrate digital citizenship into the classroom curriculum. Many other states are now considering similar legislation modeled after Washington's.

"Hopefully we can help spread the wealth, share this good information, and lead the charge on helping our kids be better prepared for this," said Liias.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-15 Women's Vocational Training Pilot Program  
Bill/Act: [S 2403](#)

New Jersey

**Summary:**

An act establishing the Women's Vocational Training Pilot Program and authorizing an allocation of funds therefor.

**Status:** Became law on June 21, 2017.

**Comments:** This bill establishes a program to provide women with the education, training, and support for success in the workforce. It specifically aims to improve the employability of women in nontraditional fields to enable them to become financially empowered. "nontraditional occupations span all major occupational groups including architects, computer programmers, computer software and hardware engineers, detectives, chefs, barbers, clergy, engineers, computer and office machine repairers, construction and building inspectors, railroad conductors, machinists, truck drivers, fire fighters, aircraft pilots, and construction occupations, as well as certain occupations in the fields of customer service, health care, and tourism."

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-16	Establishes Legislative Findings and Intent Regarding State Workforce and Talent Development Board Bill/Act: <a href="#">HB 3437</a>	Oregon
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**Summary:**

Establishes legislative findings and intent regarding State Workforce and Talent Development Board.

Prescribes duties and responsibilities of State Workforce and Talent Development Board consistent with requirements of federal Workforce Innovation and Opportunity Act. Requires board, in coordination with certain state agencies and key industry partners, to identify workforce development needs and create Workforce and Talent Development Plan. Requires board to update plan every biennium and submit annual report to Governor and Legislative Assembly. Makes conforming changes. Repeals provisions relating to Oregon Talent Council. Takes effect on 91st day following adjournment sine die.

**Status:** Became law on June 22, 2017.

**Comments:** From [KTVZ.Com](#) (May 3, 2017)

The Oregon House of Representatives voted Tuesday to strengthen the state's workforce development efforts. [House Bill 3437](#), which passed 55-1, seeks to address the gap in skilled talent and to promote economic growth.

In addition to changing the name of the State Workforce Investment Board to the Workforce and Talent Development Board, the bill expands board duties to identify key industries and their needs—including education and training—and to expand growth. The bill requires the board to convene a group of stakeholders to determine challenges and opportunities for developing talent pipelines. The stakeholder group is to include:

- Senior executives of key industries, Oregon Business Development Commission, Higher Education Coordinating Commission, Oregon Department of Education, Oregon Bureau of Labor and Industries, STEM Investment Council, local workforce development boards, Oregon Employment Department, Oregon Department of Human Services, Oregon Commission for the Blind, Chief Education Office, Youth Development Council and other partners.

It also requires the board to create a state Workforce and Talent Development Plan that would be updated every biennium and submitted to the Governor, who appoints the board, and the legislature.

Rep. Jeff Reardon (D-Happy Valley), who is also the chair of the House Committee Higher Education and Workforce Development, was the chief sponsor of the legislation.

“Oregon has a complex web of organizations working to improve the connections between working Oregonians and those businesses who need skilled workers,” Rep. Reardon said. “This

bill seeks to streamline that work and create a plan to build those connections across the state. I believe this step is important to continue Oregon's strong economic growth."

Rep. Janeen Sollman (D-Hillsboro) was a sponsor of the legislation. She said it was important for our higher education system to develop multiple pathways for Oregonians as they seek to find a profession.

"By establishing this group, and requiring a Talent Development Plan for the key industries and occupations, we would be returning to a journey with multiple pathways," Rep. Sollman said. "One where you could go to school for a degree, or go to a trade school for a high demand job and have a very strong living wage job in just a couple of years."

House Bill 3437 joins a slew of legislation championed by Oregon House Democrats this session that has sought to provide opportunity and protections to working Oregonians.

The bill now moves to the Oregon Senate for consideration.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-17 Virginia Initiative for Employment Not Welfare  
Bill/Act: [HB 991](#)

Virginia

**Summary:**

Virginia Initiative for Employment not Welfare(VIEW); education and training programs. Allows local departments of social services to place VIEW participants who are in need of job skills and who would benefit from additional job skills training in an apprenticeship program developed by the local department in accordance with requirements established by the Department of Social Services.

**Status:** Became law on March 1, 2016.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

03-39A-18     Hunger-Free Students' Bill of Rights Act  
Bill/Act: [SB 374](#)

New Mexico

**Summary:**

An Act relating to education; enacting the hunger free students' Bill of Rights Act; providing for the rights of students and responsibilities of schools participating in free or reduced-fee meal programs

**Status:** Became law on April 7, 2017

**Comments:** From the [New York Times](#) (April 7, 2017)

What is “lunch shaming?” It happens when a child can’t pay a school lunch bill.

In Alabama, a child short on funds was stamped on the arm with “I Need Lunch Money.” In some schools, children are forced to clean cafeteria tables in front of their peers to pay the debt. Other schools require cafeteria workers to take a child’s hot food and throw it in the trash if he doesn’t have the money to pay for it.

In what its supporters say is the first such legislation in the country, New Mexico has outlawed shaming children whose parents are behind on school lunch payments.

On Thursday, Gov. Susana Martinez signed the Hunger-Free Students' Bill of Rights, which directs schools to work with parents to pay their debts or sign up for federal meal assistance and puts an end to practices meant to embarrass children. It applies to public, private and religious schools that receive federal subsidies for students' breakfasts and lunches.

The law's passage is a victory for anti-hunger activists, who have long been critical of lunch-shaming practices that single out children with insufficient funds on their electronic swipe cards or who lack the necessary cash. These practices can include making the child wear a wrist band or requiring the child to perform chores in exchange for a meal.

In some cases, cafeteria workers have been ordered to throw away the hot lunches of children who owed money, giving them alternatives like sandwiches, milk and fruit.

“People on both sides of the aisle were genuinely horrified that schools were allowed to throw out children’s food or make them work to pay off debt,” said Jennifer Ramo, executive director of New Mexico Appleseed, an anti-poverty group that spearheaded the law. “It sounds like some scene from ‘Little Orphan Annie,’ but it happens every day.”

State Senator Michael Padilla, a Democrat and the majority whip, said he introduced the bill because he grew up in foster homes and experienced shaming tactics as a child.

“I made Mrs. Ortiz and Mrs. Jackson, our school lunch ladies, my best friends,” he said. “Thank goodness they took care of me, but I had to do other things like mop the floor in the cafeteria. It was really noticeable that I was one of the poor kids in the school.”

New Mexico is not alone in dealing with school meal debt. According to the School Nutrition Association, over three-quarters of school districts had uncollected debt on their books at the end of the last school year. In a survey by the association, districts reported median lunch debt of a few thousand dollars — but some were far higher, as much as \$4.7 million.

Once debt is deemed uncollectable, school nutrition departments must write it off, but they may not offset the loss with federal dollars. Instead, they must dip into other forms of revenue, such as profits from the sale of full-priced snacks and meals, or they must seek reimbursement elsewhere, usually from the district’s general fund.

Most districts try to collect outstanding balances through automated calls, texts or emails, and they may also hire an outside collection agency. The New Mexico law will still allow schools to penalize students with steps such as withholding a student’s transcript or revoking older students’ parking passes.

Lunch shaming can take a toll on the adults enlisted to carry it out as well as on children. A Pittsburgh-area cafeteria worker made national news when she quit her job rather than deny hot lunches to students.

Some school employees reach into their own pockets to pay for meals. Sharon Schaefer, a former chef at a high school in Omaha, said one cashier asked to be removed from her position because of the school’s “no money, no meal” policy. “She had been secretly paying for students’ meals,” Ms. Schaefer said, “and couldn’t afford to keep it up.”

Even those outside the cafeteria may be moved to help. Private individuals have sometimes paid off the entire outstanding balance at local schools, and last December, a single tweet inspired hundreds of thousands of dollars in donations around the country.

“I don’t think the main intention of the school meal debt policies is to humiliate,” said Ms. Ramo of New Mexico Appleseed, who said the group worked closely with school nutrition departments in drafting the bill. “Mostly, school nutrition directors are trying to balance their budgets and they see this is a necessary but effective evil.”

Nonetheless, she said, “We have to separate the child from a debt they have no power to pay.”

In 2010, the Department of Agriculture was directed to examine the feasibility of establishing national standards for dealing with meal debt, but in its report to Congress last summer, the department concluded that the matter should remain under local control. Accordingly, it directed state agencies to establish a formal payment policy by July 1 or to allow districts to set their own policies by that date. Texas and California have also introduced anti-shaming legislation.

In its official guidance, the Agriculture Department discourages the use of alternate meals and other stigmatizing practices. If an alternate meal is offered, the department suggests bringing it to the child's classroom in a paper sack so it looks like a home-packed lunch, or offering the same cold meal on the lunch line so it's available to all students.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

\*03-39A-19 New Economy Workforce Grant Program  
Bill/Act: [HB 66](#)

Virginia

**Summary:**

Create the New Economy Workforce Credential Grant Fund, administered by the State Council of Higher Education for Virginia (the Council). The bills direct the Council to disperse funds to statutorily proscribed institutions of higher education (primarily community colleges), so that they may provide grants to students in noncredit workforce training programs. Initially, the student will pay one-third the cost of tuition. Upon completion of the program, the Council will reimburse the institution for another one-third the cost of the program. Upon proof that the student has attained a credential, the Council will reimburse the institution for the remaining third of the cost of the program, up to \$3,000 per completed program per eligible student. If a student fails to complete the program, student will be responsible for paying an additional one third of the cost of the program (instead of the state). The bill also requires eligible institutions to report data about the program completion and credential attainment rates of participating students.

**Status:** Became law on March 10, 2016.

**Comments:** From the [State Council of Higher Education for Virginia](#)

During the 2016 session, the General Assembly passed HB 66 which established the New Economy Workforce Grant Program. This grant program, the first of its kind, provides a pay-for performance model for funding noncredit workforce training that leads to a credential in a high demand field. The program also includes requirements for students to complete the program in order to avoid paying additional costs. A summary of the major key components of the program are included below:

- Funds may be provided to eligible institutions for non-credit training that leads to a workforce credential in a high demand field.
- Eligible institutions include community colleges, higher education centers and Richard Bland College.
- Award amount is \$4 million in the first year and \$8.5 million in the second year and awarded on a first-come, first-served basis.
- Non-credit training programs should align with the high demand fields set by the Virginia Board for Workforce Development.
- Students are required to pay one-third of the total cost of the program upon enrollment. Students may use third party funds, such as noncredit financial aid, training vouchers or employer payment to cover this cost.
- If the student completes the training, then the state provides one-third of the cost of the program, up to \$1,500 to institution. If the student does not complete the program, then the student is required to pay this portion of the total cost.
- If the student satisfactorily completes the workforce credential after completing the training, then the institution receives the remaining one-third of the cost of the program up to \$1,500. The combined maximum award to an institution is \$3,000 for completion of

training and a credential. • Institutions must provide student-level data to SCHEV to receive funding.

- SCHEV is responsible for administering the program, conducting periodic assessment of the program, collecting student data, and making final decisions on disputes between eligible institutions and grant recipients.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

03-39A-20    Labor Education Alignment Program  
Bill/Act: [HB 1276](#)

Tennessee

**Summary:**

As enacted, creates the Labor Education Alignment Program (LEAP) to allow participating students to apply combined occupational training and academic experience toward attaining post-secondary credentials needed for employment in high-technology industries in the state; authorizes technology centers and community colleges to establish a program; outlines the duties of the department of economic and community development, the higher education commission, and the department of labor and workforce development in administering and implementing the program

**Status:** Became law on May 13, 2013

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Existing law, known commonly as a Property Assessed Clean Energy (PACE) financing program, authorizes a public agency, by making specified findings, to authorize public agency officials and property owners to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property. Existing law similarly authorizes a community facilities district to be formed pursuant to an alternative procedure under which the district initially consists solely of territory proposed for annexation to the community facilities district in the future and territory is annexed and subjected to special taxes only upon unanimous approval of the owners, to finance and refinance the acquisition, installation, and improvement of energy efficiency, water conservation, and renewable energy improvements. Existing law authorizes a public agency, or an entity that administers a PACE financing program on behalf of and with the written consent of a public agency, to issue PACE bonds that are secured by voluntary contractual assessments, voluntary special taxes, or special taxes on property to assist property owners in financing the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements.

The bill would require a program administrator, before a property owner executes an assessment contract, as defined, to make an oral confirmation that at least one owner of the property has a copy of specified documents and forms related to the contract, and to provide an oral confirmation of the key terms of an assessment contract with the property owner on the call or an authorized representative of the owner on the call that contains specified information. The bill would require a program administrator to record the oral confirmation, and to retain that recording for a specified period of time. The bill would require a program administrator to ask if the property owner would prefer the oral confirmation be provided in a language other than English, and would require the program administrator to deliver the oral confirmation in the property owner's language or via an interpreter chosen by the property owner in order for the contract to proceed, and would require the program administrator to provide the property owner with the translation of specified documents. This bill would prohibit a program administrator from waiving or deferring the first payment on an assessment contract, and would require that a property owner's first assessment payment be due no later than the fiscal year following the fiscal year in which the installation of the efficiency improvement is completed.

The bill would prohibit a contractor or other 3rd party from advertising the availability of an assessment contract that is administered by a program administrator, or from soliciting property owners on behalf of the program administrator, unless specified requirements are met. The bill would prohibit a program administrator from providing direct or indirect cash payments or anything of a material value to a contractor or 3rd party that is in excess of the actual price charged to the property owner for the sale or installation of efficiency improvements financed by an assessment contract, except for reimbursement of bona fide and reasonable training expenses related to PACE financing, as provided. The bill would also prohibit a program administrator from providing direct or indirect cash payments or anything of a material value to a property

owner that is explicitly conditioned upon the property owner entering into the assessment contract. The bill would prohibit a program administrator, contractor, or other 3rd party from making any representation as to the tax deductibility of an assessment contract, unless that representation is consistent with applicable state and federal law. The bill would prohibit a program administrator from providing information that discloses specified information relating to the property owner or the property. The bill would prohibit a contractor from providing a different price for a project financed by a PACE assessment than the contractor would provide if paid in cash by the property owner.

Existing law prohibits a public agency from permitting a property owner to participate in a PACE program unless the property owner satisfies certain conditions and the property owner is given the right to cancel the contractual assessment at any time before midnight on the 3rd business day after certain events occur, without penalty or obligation, consistent with certain requirements. Existing law requires a home improvement contract to be in writing and to contain certain information, notices, and disclosures, including a statement that a consumer has a right to cancel or rescind the contract within 3 days, and authorizes the consumer to waive that right to cancel in the case of an emergency or immediately necessary repairs.

The bill would make it unlawful to commence work under a home improvement contract if the property owner entered into the home improvement contract based on the reasonable belief that the work would be covered by the PACE program, and the property owner rescinds the PACE financing within the 3-day time period described above. The bill would require a contractor who violates that provision to restore the property to its original condition, and to return any money, property, and other consideration back to the property owner. The bill would authorize a property owner to waive his or her right to cancel for a contract that the property owner initiated for emergency repair or immediately necessary repair, as provided.

The bill would require a program administrator, for each PACE program that it administers, to submit reports to the public agency by a specified time that contains specified information regarding that program.

This bill would include findings that the changes proposed by this bill address a matter of statewide concern, and therefore shall apply to all cities and counties, including charter cities.

**Status:** Became law on October 4, 2017.

**Comments:** From the [LA Times](#) (September 16, 2017)

Two bills that would boost protections for consumers taking out PACE home-improvement loans are headed to Gov. Jerry Brown's desk after passing the Legislature.

The regulations come amid criticism by consumer advocates that too many borrowers are taking out unaffordable loans for solar panels and other energy-efficiency projects — the kind of upgrades funded by PACE — because contractors misrepresent how the financing works.

The bills, if signed, would enshrine a number of reforms into law, including a first-time requirement that income be factored into underwriting. The legislation also bars kickbacks and establishes a minimum training requirement for contractors, who typically also act as salespeople.

“We want people to benefit from water and energy efficiency, but they shouldn’t have to sacrifice consumer protections,” said Assemblyman Matt Dababneh (D-Woodland Hills), who authored AB 1284, which includes the income and training requirements.

The bill also charges the Department of Business Oversight with regulating PACE lenders, something Dababneh called critical to the success of the new rules.

“We were able to make sure there is some enforcement,” he said. “We have a referee.”

Major lenders largely supported the package of bills, but consumer groups said there were too many loopholes in Dababneh’s bill, which passed early Saturday morning.

“There remain significant areas of concern,” the California Low-Income Consumer Coalition told Dababneh in a letter, expressing its neutral position.

First started in 2008, PACE, or Property Assessed Clean Energy, programs are typically established by local governments, which tie the privately financed loans to the home and allow them to be repaid as line items on property tax bills. Beyond energy efficiency, the loans can be used for items such as low-flow toilets that save water.

In Southern California, Los Angeles, Riverside, San Bernardino and San Diego counties have approved PACE lenders to operate.

The programs can be a moneymaker for governments, which take fees for collecting the loan payments and turning them over to the lenders. Contractors who do the work are paid and managed by the lenders.

If PACE bills go unpaid, a homeowner could lose the house to foreclosure. But the three major California-based lenders — Renovate America, Ygrene Energy Fund and Renew Financial — say the vast majority of their thousands of customers come away happy after completing energy-efficiency projects.

And they say they haven’t yet foreclosed on anyone for not paying their assessment.

But consumer groups say too many contractors have misrepresented how the loans are to be paid back, particularly to elderly individuals who now are struggling to make payments. Kern County and its largest city, Bakersfield, recently voted to end their PACE programs because of such concerns.

The two bills attempt to fix some of the problems.

SB 242 would mandate that PACE providers have calls with all homeowners before they take out the loan to ensure they understand the terms — something not all of the major companies did at first, but say they do now.

The bill, authored by Sen. Nancy Skinner (D-Berkeley), also bars lenders from paying kickbacks to contractors.

AB 1284 would require lenders to make a “reasonable good faith effort” to ensure borrowers have the ability to repay their loans based on income, assets and current debt obligations. Today, eligibility is largely based on home equity.

“This is really going to reshape and strengthen PACE significantly in California,” said Greg Frost, a spokesman for Renovate America.

Alys Cohen, a staff attorney with the National Consumer Law Center, disagreed.

She said AB 1284 has too many loopholes, including one that allows a borrower to be approved for financing before an ability-to-repay analysis is completed. If the analysis later finds the homeowner cannot afford the payments, the bill requires PACE lenders to cover the difference, except in the case of intentional misrepresentation by the borrower.

Dababneh said lenders can’t file a lien to enforce the loan before completing the analysis, which gives assurance to borrowers they won’t be on the hook.

But Cohen said how the process will work isn’t spelled out and doing an analysis on the back end leaves open the possibility that homeowners will be forced to make payments they can’t afford.

“This whole process is backwards,” she said. “The setup allows the contractor to pressure the homeowner at the door because they don’t have to do the affordability analysis until after.

“It preserves a troublesome business model,” she said.

Dipti Singh, directing attorney with pro bono law firm Bet Tzedek, said the income section also is vaguely written.

For example, when describing how a lender — often called a program administrator — must verify a borrower’s income, it gives examples of how they “may” complete that requirement, rather than mandate specific steps.

“We don’t want a program administrator to just check one pay stub, for example, and call it a day,” she said.

Still, Singh called the bill a step in the right direction and said Bet Tzedek would continue to work with lawmakers to tighten the rules.

“We are not done,” she said.

Dababneh said he thought many of the issues consumer groups raised will be addressed in rule-making by the Department of Business Oversight and said he was open to cleanup legislation if anything needs fixing.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

04-39A-02     Property Assessed Clean Energy Program: Program Administrators  
Bill/Act: [AB 1284](#)     California

**Summary:**

Establishes requirements for Property Assessed Clean Energy (PACE) program administrators that must be met before PACE assessment contracts may be funded and recorded by a public agency, renames the California Finance Lenders Law (CFLL) as the California Financing Law (CFL), requires program administrators to be licensed under the CFL, and establishes a regulatory scheme for the oversight of PACE solicitors and PACE solicitor agents.

**Status:** Became law on October 4, 2017

**Comments:** From the [LA Times](#) (September 16, 2017)

Two bills that would boost protections for consumers taking out PACE home-improvement loans are headed to Gov. Jerry Brown's desk after passing the Legislature.

The regulations come amid criticism by consumer advocates that too many borrowers are taking out unaffordable loans for solar panels and other energy-efficiency projects — the kind of upgrades funded by PACE — because contractors misrepresent how the financing works.

The bills, if signed, would enshrine a number of reforms into law, including a first-time requirement that income be factored into underwriting. The legislation also bars kickbacks and establishes a minimum training requirement for contractors, who typically also act as salespeople.

"We want people to benefit from water and energy efficiency, but they shouldn't have to sacrifice consumer protections," said Assemblyman Matt Dababneh (D-Woodland Hills), who authored AB 1284, which includes the income and training requirements.

The bill also charges the Department of Business Oversight with regulating PACE lenders, something Dababneh called critical to the success of the new rules.

"We were able to make sure there is some enforcement," he said. "We have a referee."

Major lenders largely supported the package of bills, but consumer groups said there were too many loopholes in Dababneh's bill, which passed early Saturday morning.

"There remain significant areas of concern," the California Low-Income Consumer Coalition told Dababneh in a letter, expressing its neutral position.

First started in 2008, PACE, or Property Assessed Clean Energy, programs are typically established by local governments, which tie the privately financed loans to the home and allow them to be repaid as line items on property tax bills. Beyond energy efficiency, the loans can be used for items such as low-flow toilets that save water.

In Southern California, Los Angeles, Riverside, San Bernardino and San Diego counties have approved PACE lenders to operate.

The programs can be a moneymaker for governments, which take fees for collecting the loan payments and turning them over to the lenders. Contractors who do the work are paid and managed by the lenders.

If PACE bills go unpaid, a homeowner could lose the house to foreclosure. But the three major California-based lenders — Renovate America, Ygrene Energy Fund and Renew Financial — say the vast majority of their thousands of customers come away happy after completing energy-efficiency projects.

And they say they haven't yet foreclosed on anyone for not paying their assessment.

But consumer groups say too many contractors have misrepresented how the loans are to be paid back, particularly to elderly individuals who now are struggling to make payments. Kern County and its largest city, Bakersfield, recently voted to end their PACE programs because of such concerns.

The two bills attempt to fix some of the problems.

SB 242 would mandate that PACE providers have calls with all homeowners before they take out the loan to ensure they understand the terms — something not all of the major companies did at first, but say they do now.

The bill, authored by Sen. Nancy Skinner (D-Berkeley), also bars lenders from paying kickbacks to contractors.

AB 1284 would require lenders to make a “reasonable good faith effort” to ensure borrowers have the ability to repay their loans based on income, assets and current debt obligations. Today, eligibility is largely based on home equity.

“This is really going to reshape and strengthen PACE significantly in California,” said Greg Frost, a spokesman for Renovate America.

Alys Cohen, a staff attorney with the National Consumer Law Center, disagreed.

She said AB 1284 has too many loopholes, including one that allows a borrower to be approved for financing before an ability-to-repay analysis is completed. If the analysis later finds the homeowner cannot afford the payments, the bill requires PACE lenders to cover the difference, except in the case of intentional misrepresentation by the borrower.

Dababneh said lenders can't file a lien to enforce the loan before completing the analysis, which gives assurance to borrowers they won't be on the hook.

But Cohen said how the process will work isn't spelled out and doing an analysis on the back end leaves open the possibility that homeowners will be forced to make payments they can't afford.

"This whole process is backwards," she said. "The setup allows the contractor to pressure the homeowner at the door because they don't have to do the affordability analysis until after.

"It preserves a troublesome business model," she said.

Dipti Singh, directing attorney with pro bono law firm Bet Tzedek, said the income section also is vaguely written.

For example, when describing how a lender — often called a program administrator — must verify a borrower's income, it gives examples of how they "may" complete that requirement, rather than mandate specific steps.

"We don't want a program administrator to just check one pay stub, for example, and call it a day," she said.

Still, Singh called the bill a step in the right direction and said Bet Tzedek would continue to work with lawmakers to tighten the rules.

"We are not done," she said.

Dababneh said he thought many of the issues consumer groups raised will be addressed in rule-making by the Department of Business Oversight and said he was open to cleanup legislation if anything needs fixing.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

04-39A-03 The Future Energy Jobs Bill  
Bill/Act: [SB 2814](#)

Illinois

**Summary:**

Amends the Public Utilities Act. Provides that the Office of Retail Market Development shall: have the function and duties of promoting competition in the natural gas market for all classes of customers; work with all segments of the natural gas market to identify barriers to competition; and recommend to the Illinois Commerce Commission, the Governor, and the General Assembly programs or legislation needed to eliminate those barriers. Effective immediately.

**Status:** Became law on December 7, 2016.

**Comments:** From the [Midwest Energy News](#) (December 8, 2016)

The dust is barely settling after the frenetic race to pass a sweeping energy bill in Illinois, on the last day of the state legislature's veto session December 1.

Many of the clean energy developers, environmental advocates, consumer watchdogs and community leaders involved in grueling negotiations are still trying to make sense of the "shotgun legislating," as Wind on the Wires public policy manager Kevin Borgia described it.

"Where you introduce an amendment, have a hearing 10 minutes later, introduce another one, have another hearing, with seven amendments in 48 hours."

Governor Bruce Rauner signed the bill Wednesday, and it takes effect in June 2017.

Stakeholders have variably described the bill as a landmark victory for clean-energy, a ratepayer-funded bailout for powerful companies, a triumph for solar or a loss for natural gas interests, depending on where they stand on the issues.

Meanwhile, the legislation was a surprising example of bipartisan cooperation between a Republican governor and a Democratic legislature which has failed to pass a state budget or much else. And despite their sometimes bitter differences during negotiations, most of the clean energy, environmental, consumer and community groups involved say it was an impressive example of collaboration that they hope will continue in the future.

And these groups will not have much of a breather. "Trailer legislation" is expected to be introduced when the state legislature briefly reconvenes in January, to address inconsistencies, technicalities and unintended issues enshrined during the rush to revise and pass the bill last week. The details of multiple provisions of the bill will also be hammered out before the Illinois Commerce Commission in lengthy proceedings involving many stakeholders.

An RPS fix, at long last

For several years, renewable energy developers and environmental groups have been pushing for a fix to the state's Renewable Portfolio Standard. Without this arcane but crucial structural revision, funds meant for renewable energy were not sparking the development of wind or solar in Illinois and instead credits were being purchased from out-of-state projects.

An RPS fix was the cornerstone of the Clean Jobs Bill introduced by a coalition of clean energy developers and advocates, a competitor to separate bills introduced by Exelon and ComEd last spring. The Clean Jobs Bill would have increased the RPS target, to 35 percent clean energy by 2030, up from 25 percent in the existing standard.

After state legislators indicated they would only pass a bill supported by all the major interests, the three bills were rolled into one. The resulting Future Energy Jobs Bill passed December 1 included the RPS fix but kept the target at 25 percent by 2030, rather than increasing it.

Proponents say the RPS fix will mean about 1,300 MW of new wind power and up to 3,000 MW of new solar constructed in Illinois by 2030.

There is typically no penalty if RPS targets are not reached, and no guarantee that the targets will be achieved. The Illinois Power Agency (IPA) is tasked with procuring power for the state's utilities, ComEd and Ameren, and the bill orders the agency to make a plan for meeting the RPS targets. Supporters of the RPS fix said various analyses show the state will be able to meet the RPS targets and comply with the provisions that renewable energy come from in-state sources.

"The law requires the IPA for the first time to think about renewable energy in a long-term way," said Brad Klein, senior attorney for the Environmental Law & Policy Center. "So the process going forward will have to maintain the strong coalition we've developed and engage with the Illinois Commerce Commission and IPA to hit those targets and develop programs that will allow people to benefit, to really achieve the goals of the statute."

Dave Lundy is director of the BEST Coalition, a 501c4 organization of business and consumer groups that vehemently opposed the bill. Though Lundy has long supported an RPS fix, he said the state is highly unlikely to meet its RPS targets, because the nuclear subsidies in the bill will "artificially depress market prices" for energy so that wind and solar will not be able to compete. The RPS does not mean wind and solar will be directly procured by the IPA; the agency will purchase renewable energy credits that help fund wind and solar.

Borgia said wind developers would have liked to see the state embrace much more ambitious targets. He noted that the Minneapolis-based utility Xcel Energy is investing \$2 billion in 1,500 MW of wind to come online by 2020, more wind power than the RPS is expected to spark over 13 years in Illinois.

Borgia said it's also important to fix a provision of the bill that as currently written requires the Illinois Commerce Commission to develop certification and training standards for wind developers. He said it took the commission about two years to develop and implement similar standards for builders of solar installations and electric vehicle charging stations, and he's afraid

new wind development will be stalled for many months unnecessarily if a similar process is carried out.

“We don’t need a two-year shutdown for a training program, we’ve built more than 2,200 wind turbines in Illinois all of which were done without a training program,” Borgia said, noting that wind construction in Illinois will inherently employ many skilled union laborers. “This is something where reasonable people can come together and work to understand each other’s goals, something that can be cleaned up in a trailer bill.”

### Solar victory

If the bill has one big winner — other than Exelon — it is arguably the solar industry, which gained important provisions and defeated controversial proposals, proving its political power and forging important alliances in the process.

The RPS fix could exponentially increase the state’s installed solar capacity, from 55 MW to an additional 3,000 MW according to projections.

Carveouts in the RPS mean that more than half the new solar must come from distributed (mostly rooftop) installations, community solar and solar farms built on brownfields. And not only will solar benefit from the RPS fix, but solar companies defeated several proposals backed by ComEd that they said would devastate solar development.

Going into the veto session the bill included a demand charge, which solar advocates said could kill the residential solar market by basing electric bills on consumers’ highest demand spikes and making it hard to calculate or earn savings from installing solar. Consumer groups also opposed the provision.

Illinois Attorney General Lisa Madigan repeatedly voiced her opposition to demand charges, and during the bill’s final stretch a memo from the governor’s office was leaked wherein his adviser called demand charges “insane.”

ComEd had hoped to pair the demand charge with an elimination of retail net metering. While this provision was also eliminated from the bill, the rebate that ComEd had proposed as a replacement for net metering remained.

“This speaks very loudly and clearly that there is a definite momentum against mandatory demand charges across the country,” said Amy Heart, director of public policy for the solar developer SunRun.

“It also shows the popularity of solar – Republicans and Democrats on the House floor were speaking in favor of solar, in favor of the RPS fix, because they wanted to be able to support economic development and job growth. In Illinois, one of the most divisive states politically, everyone was able to come together and agree that rooftop solar plays a role in the energy future.”

## Energy efficiency arguments

Nick Magrisso went into the Thanksgiving holiday thrilled about the latest version of the energy bill. A controversial support for coal plants had been deleted and the bill included mandates for major investments in energy efficiency, a focus area of the Natural Resources Defense Council where Magrisso is the Midwest legislative director.

That version of the bill required ComEd to reduce its customers' overall energy demand by a cumulative 23 percent by 2030 and also allowed the utility to for the first time profit off its energy efficiency investments and spend more than the existing rate cap of 2 percent of total energy sales on energy efficiency. Ameren was required to reduce its demand a cumulative 15 percent.

But some consumer groups, large industrial users and Ameren argued that the energy efficiency targets would be way too costly.

In the bill that ultimately passed, ComEd's energy reduction requirement is 21.5 percent and Ameren's is 16 percent. And large industrial users are allowed to opt out of the program, meaning they do not need to help subsidize system-wide energy efficiency investments. Or they can "self-direct" investments, meaning they can essentially receive credit for investments in energy efficiency at their own facilities.

The bill also raises the cap from 2 percent to 4 percent, by 2030, of energy sales that can be invested in energy efficiency. And the new cap is calculated on a different baseline, which means the total amount is even larger, proportionally.

Magrisso said he was disappointed in the changes in the final draft but the bill is still a major win for energy efficiency and renewable energy. He wishes the rate cap had been removed altogether, so utilities could invest even more in efficiency programs, which include rebates and incentives for customers to install efficiency measures.

"The cap could limit both utilities, especially Ameren, from achieving their goals," Magrisso said. He also hopes industrial users will not opt out of the program, and that there is rigorous monitoring of any self-directed investments to make sure they are really saving energy. He noted that Illinois' low energy prices, a major draw for industries, are thanks in part to efficiency investments the state has already made.

"If the largest users opt out, they start to tug at that thread that gives them the great benefits they claim to enjoy," he said.

Lundy meanwhile said that only a fraction of industrial and commercial users meet the threshold to be able to opt out, and many companies will see their bills rise so much because of the energy efficiency programs that they might cut production or leave the state. The bill caps commercial and industrial customers' rate increases at 1.3 percent, but Lundy charges the baseline used to calculate this increase is set artificially high, meaning the increase will actually be much greater.

## Nuclear intrigue

The massive energy bill basically originated with Exelon's request several years ago for subsidies to keep its financially struggling nuclear plants open. Exelon had originally demanded almost \$400 million per year to keep three of its six Illinois nuclear plants running.

The bill ultimately calls for subsidies of up to \$235 million per year to keep two plants open, with an assurance that residential rates will not go up more than an average 25 cents per customer per month in ComEd territory and 35 cents in Ameren territory.

Multiple critics have said the rate caps in the bill are too loosely defined and unenforceable, and rates are likely to go up much more. The BEST Coalition has pegged the likely rate increase at about \$4 per customer per month on average. And Lundy said that since this is an average, customers who don't take advantage of energy efficiency programs could see greater increases.

"I'm absolutely certain that this is a disastrous bill," said Lundy. "It's exceedingly costly, the rate cap numbers are a fiction."

Exelon's demand for subsidies had originally drawn ardent condemnations from numerous environmental, consumer and social justice groups. Most groups involved directly or indirectly in the bill negotiations ultimately consented to live with the nuclear provision in order to pass the bill. Some groups are still declaring their opposition to the "nuclear bailout," as critics call it, while others have said the nuclear plants need to be kept open to avoid heavier reliance on coal and natural gas.

Abe Scarr, director of Illinois PIRG, said the consumer group opposes the bill because of the nuclear supports.

"We have a problem with the nuclear bailout and think it's unfortunate that the reality right now in [the state capitol] is in order for good policies to pass, Exelon and ComEd have enough power to force a compromise like this more tilted toward their interests than the best interests of Illinois," Scarr said.

Anti-nuclear and environmental justice groups also continue to oppose the nuclear subsidy.

Natural gas interests did not openly weigh in during the negotiations. But bill proponents charged that natural gas companies were working behind the scenes to oppose the legislation since the closing of nuclear plants could benefit the gas industry through a larger market share, increased capacity payments and reduced fees related to congestion on electricity transmission lines.

Business groups traditionally seen as allies of Gov. Rauner also staunchly opposed the nuclear subsidy.

"We're not anti-nuclear by any means, but we're not for state bailouts of companies no matter who they are," said Timothy Benson, a policy analyst for the free market think tank Heartland

Institute, which promotes climate change denial and often the interests of fossil fuels. He said the institute also opposes the RPS fix.

“I can see Exelon’s point that they have to compete with these renewable sources, the RPS bandaid and whatnot,” Benson said. “But if we’re going to subsidize one industry that doesn’t mean we should subsidize another.”

### Environmental justice leadership

For the Little Village Environmental Justice Organization (LVEJO) and other environmental justice groups statewide, a major victory happened months before the passage of the bill. That’s because LVEJO was included among the select core group of negotiators hashing out the bill’s text behind closed doors.

Environmental justice leaders said this is the first time the EJ community has had such a formal, insider role in crafting state law. And they see it as a major improvement from the high-profile campaign to close Chicago’s two coal-fired power plants, when environmental justice and community leaders said they were excluded from negotiations between major environmental groups and elected officials.

LVEJO policy director Juliana Pino negotiated the bill on behalf of both LVEJO and other statewide environmental justice groups, conferring with them about demands and developments. The bill includes significant provisions for low-income and minority communities, including \$25 million annually in low-income energy programs; a promise that distributed and community solar will be built in environmental justice communities; and that solar and energy efficiency-related jobs will also go to these community residents.

Though the low-income program was cut in half from \$50 million to \$25 million in the final stretch of negotiating, Pino said it is still a major victory.

The bill provides job training and incentives to employers meant to ensure that at least 2,000 jobs will be made available to alumni of the foster care system and to people with criminal records that make it hard for them to find work.

Up to \$200 million from the RPS funding pool will underwrite rooftop and community solar projects in low-income communities where people might otherwise have struggled to build solar.

“What we were looking for out of this bill was to be able to access the benefits of a clean energy economy, both environmentally and the economic benefits,” said Pino. “We definitely did get some of that, in both community solar and rooftop solar development in EJ communities, and job training and partnerships for people developing solar. So it’s a targeted match for training opportunities and job opportunities, as opposed to what we saw in the past when people would train for jobs that weren’t there or they would see jobs and not have the training.”

Dawn Dannenbring is an organizer of Illinois People’s Action, a statewide community and faith-based group. Chapters in the Rust Belt central Illinois cities of Peoria, Decatur and Bloomington-

Normal were especially mobilized around the bill, Dannenbring said, including through Mt. Zion Baptist Church in Peoria.

She noted that the financial news outlet 24/7 Wall St. recently named Peoria the worst place in the country for black Americans to live, based in part on vast disparities in income compared to white residents.

“They want energy sovereignty – they want to own rooftop solar on the church, they want people to be able to buy into that as a way for increasing wealth,” said Dannenbring, noting that locals have been meeting at Mt. Zion twice a month for a year to work on the legislation.

“They have lived in the shadow of a coal-fired power plant in Peoria, with families having four generations suffering from asthma. They want to see these coal-fired plants replaced with clean renewable energy. They refer to themselves as environmental justice warriors.”

Numerous stakeholders said the environmental justice representation was key to the bill, and more generally the collaboration between diverse stakeholders was an end in itself.

“The backstory here is how the coalition came together and created real political power around low-income solar and community solar and rate design and other things we were able to achieve,” said Klein. “Hopefully this is the start of a really strong coalition that will implement these programs and get future wins on the clean energy front.” research studying the feasibility and desirability of producing industrial hemp in Washington. A report on its findings is due to the Legislature in January 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Allowing a credit against the State income tax for the total installed costs paid or incurred by a taxpayer that installs an energy storage system and who obtains a tax credit certificate from the Maryland Energy Administration; requiring the Administration to issue tax credits not to exceed specified amounts; prohibiting the Administration from issuing an aggregate amount of tax credit certificates exceeding \$750,000 in a taxable year; applying the Act to all taxable years beginning after December 31, 2017; etc.

**Status:** Became law on May 4, 2017.

**Comments:** From the [Tax Equity Times](#) (May 10, 2017)

On May 4, 2017, Maryland became the first state in the country to offer a tax credit for energy storage systems with Governor Larry Hogan's (R) signing of Senate Bill No. 758 (available [here](#)).

The law provides a tax credit for certain costs of installing an energy storage system. Energy storage systems include systems used to store electrical energy, or mechanical, chemical, or thermal energy that was once electrical energy, for use as electrical energy at a later date or in a process that offsets electricity use at peak times. The tax credit is not limited to storage systems that are charged by renewable energy sources.<sup>[1]</sup> The tax credit is up to \$5,000 for a system installed on a residential property and the lesser of \$75,000 and 30 percent of the cost of the energy storage system for a system installed on a commercial property (which presumably would include a utility). The tax credit would apply to systems installed between January 1, 2018, and December 31, 2022. The tax credit may only be used to offset Maryland income tax liability (i.e., it cannot be applied against other types of Maryland taxes such as excise tax) and may not be carried forward to another taxable year. The law sets a limit of \$750,000 on the aggregate tax credits issued to all taxpayers in a taxable year; such credits to be issued on a first-come, first-served basis.

Maryland also recently passed House Bill No. 773 which provides for a study of regulatory reforms and market incentives that may be necessary to increase the use of energy storage devices in Maryland. The Maryland legislature also recently voted to override Hogan's veto of the Clean Energy Jobs bill which increased Maryland's renewable energy standard to 25 percent by 2020, up from the previous standard of 20 percent by 2022.

The \$750,000 aggregate cap on the storage tax credit limits its reach. For example, if commercial projects make up all of the storage systems granted the credit (and each receives the maximum credit), only 10 projects state-wide would be eligible for the credit. Further, the storage tax credit will only be an effective incentive if there are taxpayers with enough Maryland income tax liability in a taxable year to maximize the credit. In this regard, we highlight below two aspects

of Maryland tax law (although there are undoubtedly many others) that a project developer may want to consider in determining the value of the storage tax credit.

First, it is not entirely clear whether Maryland would apply the so-called “passive activity credit rules” to an individual that claims the storage tax credit and does not materially participate in the conduct of the related project (for example, a passive investor). Federal income tax law generally limits the amount of losses (so-called “passive activity loss rules”) and business credits (so-called “passive activity credit rules”) allowed to a passive individual investor to the amount of such individual’s tax liability allocable to passive activity.[2] Maryland law does not expressly incorporate this provision of federal income tax law with respect to tax credits; however, Maryland implicitly adopts the passive activity loss rules by using a taxpayer’s federal taxable income (which is computed taking into account the passive activity loss rules) as the baseline for computing such taxpayer’s Maryland taxable income.[3] Although the passive activity credit rules are not implicated by this mechanism, Maryland may argue as a matter of policy and parity that credits, like losses, should be subject to the passive activity limitations of federal income tax law.[4] Thus, it’s not clear whether an individual taxpayer would be able to use the storage tax credit to offset all Maryland income tax liability that is not allocable to passive activity.

Second, project sponsors that have insufficient tax appetite to take advantage of a project’s federal income tax credit allowance will often form a partnership with tax equity investors to monetize such credits. However, tax equity investors are frequently unwilling to pay for state tax credits. To maximize the value of both the federal and state tax credits, the tax equity partnership may specially allocate all of the state tax credit to the sponsor (assuming the sponsor has sufficient state taxable income to utilize state tax incentive), while allocating 99 percent of the federal tax attributes to the tax equity investors. While there is no general provision under Maryland law that would prevent a partnership from specially allocating tax credits in a manner that is disproportionate to the general allocation of profits and losses, a number of existing Maryland tax credits have specific regulatory provisions that would require a partnership to allocate the tax credit in accordance with federal income tax rules.[5] If Maryland were to issue similar regulations with respect to the storage tax credit, a tax equity partnership may not have the flexibility to specially allocate the storage tax credit in a manner that is inconsistent with the allocation of the federal income tax attributes, thereby reducing the value (and thus the incentive) of the storage tax credit.

While there are a number of practical considerations that may limit the value of Maryland’s storage tax credit, Maryland’s storage tax credit, the first of its kind in the nation, represents a significant step in incentivizing new energy technologies.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle

( ) Reject

Comments/Note to staff

04-39A-05    Committing to Paris Climate Accord  
Bill/Act: [SB 559](#)

Hawaii

**Summary:**

Requires the State to expand strategies and mechanisms to reduce greenhouse gas emissions statewide in alignment with the principles and goals adopted in the Paris Agreement. Renames the Interagency Climate Adaptation Committee as the Hawaii Climate Change Mitigation and Adaptation Commission. Clarifies the duties of the Commission. Repeals the Commission effective 7/1/2022. Makes appropriations for purposes of this Act and a climate change mitigation and adaptation coordinator position. (CD1)

**Status:** Became law on March 30, 2016.

**Comments:** From the [The Washington Post](#) (June 7, 2017)

When the traditional Hawaiian canoe Hokule'a set sail four years ago, the wayfinders on board — men and women navigating the open sea by a map of stars — vowed to seek a renewed sense of self and share with the world a treasured message: Malama Honua.

In Hawaiian, it means to care for Island Earth, a mission especially important to Pacific Islanders, whose home and economy is under constant threat from the rising seas and coral bleaching caused by a warming planet.

This week, the wayfinders will return to a Hawaii that on Tuesday took a defiant stand, becoming the first state to legally implement portions of the landmark Paris climate agreement that President Trump chose to abandon last week.

“Climate change is real, regardless of what others may say,” Hawaii Gov. David Ige said at a bill signing ceremony Tuesday in Honolulu. “Hawaii is seeing the impacts first hand. Tides are getting higher, biodiversity is shrinking, coral is bleaching, coastlines are eroding, weather is becoming more extreme. We must acknowledge these realities at home.”

Ige said the state had a “kuleana,” or responsibility, to the Earth.

“Like the voyaging canoe Hokule'a, we are one canoe, one island, one planet,” the governor said. “We cannot afford to mess this up. We are setting a course to change the trajectory of Hawaii and islanders for generations to come.”

With Ige’s signature, two bills became law.

The first, Senate bill 559, expanded strategies and mechanisms to reduce greenhouse gas emissions statewide, a tenet of the Paris agreement. The second, House bill 1578, established the Carbon Farming Task Force within the state’s Office of Planning, to support the development of sustainable agriculture practices in Hawaii, a skill native islanders had once mastered before planes, freighters and Amazon linked them to the mainland.

Both bills were introduced in January, after President Trump moved into the White House and began what many climate scientists felt was a wholesale dismantling of the Environmental Protection Agency and a reversal of the steps taken by the Obama administration to combat global warming.

They weren't meant to be signed into law for several more weeks, Scott Glenn, an environmental adviser to the governor, told The Washington Post. But after Trump announced the United States would exit the Paris agreement, Glenn and his co-chair on the Sustainable Hawaii Initiative recommended the bill signing and ceremony be moved up because "this was of such national importance," he said.

Senate Majority Leader J. Kalani English (D) introduced SB 559 and said in a statement Tuesday that it gave Hawaii the "legal basis to continue adaptation and mitigation strategies ... despite the Federal government's withdrawal from the treaty."

The governor also committed Hawaii to the U.S. Climate Alliance, a collection of 12 states and Puerto Rico that have vowed to uphold the Paris climate agreement on the state level.

It's not the first time this year that Hawaii has inserted itself into the fray of national controversy. In March, Hawaii became the first state to file a lawsuit against Trump's revised travel ban because, it claimed, the order would negatively impact its many international students, tourism and Muslim population.

The state has so far prevailed in the suit, prompting Attorney General Jeff Sessions' now-infamous remark that he was "amazed that a judge sitting on an island in the Pacific can issue an order that stops the president of the United States."

That Hawaii would take such a firm stance on environmental issues should not surprise anyone, Darren Lerner, director of the Sea Grant College Program at the University of Hawaii, told The Post.

"First and foremost, for Hawaii in particular, the science really speaks clearly," Lerner said. "Due to its vulnerability and relative isolation, it needs to move forward on these issues."

Lawmakers and environmental leaders in Hawaii are quick to say that there, the environment and the economy are inextricably linked. Tourists flock to the collection of islands to experience its beaches and explore its coral reefs, both of which are threatened by warming and rising waters.

In late May, the islands suffered the highest tides the state has seen in its 120 years of recording them. Called "king tides," the water creeps up onto shore, swallowing beaches and flooding streets. King tides occur during the summer solstice and stretch the island's high tides even higher, Lerner said.

Rainfall patterns are shifting and the islands are experiencing more extreme weather, Lerner said, which was most evident during hurricane season in recent years. The 2015 season set five records, according to the National Oceanic and Atmospheric Administration.

The mounting evidence and creeping threat has thrust Hawaii into what Lerner called “a very significant rebirth” and commitment to understanding and addressing climate change.

And the voyage of Hokule'a, with its wayfinders and message of Malama Honua, has offered the state a symbol for that renewed spirit of sustainability.

Building Hokule'a and training the wayfinders has been the life work of Nainoa Thompson, president of the Polynesian Voyaging Society, whose best friend was Charles Lacy Veach, one of the first astronauts in space.

At the bill signing ceremony Tuesday, Thompson spoke of Veach and how he compared the Hawaiian Islands to Earth, “the blue island in space.” Veach, who died of cancer in 1995, inspired Thompson to send wayfinders on Hokule'a to learn from people around the globe fighting for the environment.

Thompson recalled Veach encouraging the wayfinders to bring their knowledge from the voyage “home to Hawaii.”

On Tuesday, Thompson said there were six navigators out on the water, just hours away from finding their way back home.

“When they find Hawaii, I will call them and tell them the Hawaii they are coming home to is powerful, strong, united and willing to do the right thing,” Thompson said.

Veach, who was on board the space shuttle Columbia in 1992 as it flew over Hawaii, would be proud of the islands and his people, Thompson said.

“We need places to shine the light strongly. We need places of hope, we need places that the rest of the world can turn to and understand real success,” he said. “That’s what happened today.”

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Requires the Rhode Island office of energy resources, in consultation with the building commission to promulgate rules and regulations to create a statewide solar photovoltaic permit application.

**Status:** Became law on June 19, 2017

**Comments:** From the [Eco Rhode Island News](#) (August 16, 2017)

NORTH KINGSTOWN, R.I. — Gov. Gina Raimondo recently held a bill-signing ceremony to brag about the unusually high number of renewable-energy bills passed by the General Assembly this year — and to show her commitment to address climate change.

Raimondo explained the flurry of bills was the result of new thinking and new people at the Office of Energy Resources, Division of Public Utilities and Carriers, Infrastructure Bank and Department of Environmental Management. For about a year, she said, this group focused on overlapping issues related to the environment, energy, the business climate and regulations.

The intent, Raimndo said, is to “try to create a single team on the field across departments so that we could properly attack the challenges of climate change.”

So far, she said, green-sector jobs and energy-reduction goals are ahead of schedule. Raimondo touted her goal of 1,000 megawatts of renewable energy by the end of 2020.

Yet a major hurdle remains for some environmentalists: a carbon tax.

Although a carbon-tax bill (S365, H5369) died in committee this year, Raimondo said, after inking her name to the six bills, that she would likely sign a carbon-fee bill if one reached her desk.

“I do support it. It’s the right way forward,” she said. “I urge the General Assembly to come up with a bill that moves us in that direction because I think it’s the right way to go.”

Nationally, a carbon tax has Republican — or at least center-right GOP — support and the backing from multinationals such as Proctor & Gamble and General Motors. The fee on oil, natural gas, gasoline, diesel and coal is considered the most effective free-market solution to curbing carbon emissions and transitioning to renewable energy. The fee subsidizes incentives for renewable projects while paying an annual dividend to businesses and residents.

Sen. Sheldon Whitehouse, D-R.I., and Rep. David Cicilline, D-R.I., sponsored a revised carbon-tax bill in late July. The legislation kicked off with an event hosted by the conservative think tank American Enterprise Institute.

Eight states, including Massachusetts and Connecticut, and the District of Columbia are considering carbon-tax programs. Canada intends to implement a nationwide carbon tax in 2018, after British Columbia enacted a fee on carbon in 2008.

A statewide fee in Rhode Island, however, is opposed by powerful business advocacy groups such as affiliates of the Chamber of Commerce, Rhode Island Public Expenditure Council and oil distributors. President Trump and his cabinet reject the notion of anthropogenic climate change and thereby oppose the carbon-fee concept.

For some environmentalists and climate activists a state carbon fee seems like the most likely option in the near future. In July, the Civic Alliance for a Cooler Rhode Island sent Raimondo a letter demanding swifter action on cutting carbon emissions and fossil-fuel use and adopting climate-change mitigation.

National Grid, Rhode Island's primary electricity distributor, wasn't at the recent bill-signing ceremony, nor was the company mentioned in remarks by elected officials and state energy officials such as Carol Grant, head of the Office of Energy Resources.

Grant said after the Aug. 9 event that National Grid wasn't omitted intentionally. The utility, she said, is an important partner in many of the state's efforts to advance renewable energy.

National Grid spokesman Ted Kresse said the utility supports the legislation but was unable to attend the ceremony because of a scheduling conflict.

In the past, National Grid has been reluctant to support several of the state's primary energy incentives, such as the renewable-energy standard and net metering. Three of the renewable-energy bills passed this year were extension of those programs.

H5274 and S112 extend the state's successful fixed-term and fixed-pricing RE Growth program for 10 years. National Grid manages the applications for the tariff program, which mandates that the utility dedicate 40 megawatts of power production annually to new wind and solar projects.

National Grid put up a much bigger fight over efforts to determine who pays for connecting large wind and solar projects to the electric grid. Disputes over the so-called interconnection costs delayed the operation of the three turbines at the Narragansett Bay Commission in Providence and several turbines being built by Wind Energy Development of North Kingstown.

H5483 and S637 addressed those concerns and established deadlines for the interconnection work and related applications.

Renewable-energy development on farms and open space also had a breakthrough. H6095 and S570 establish that 20 percent of protected land can be used for renewable-energy projects while still keeping its property-tax status. A bill establishing siting rules for wind and solar projects died in committee, after opposition from some farmers and communities such as South Kingstown that are leery of wind turbines.

Raimondo insisted that the bill she signed doesn't preempt local siting regulations. "Local issues have to be dealt with at the local level," she said. "So I am not going to tell any locality what to do."

Another of the new bills, however, makes it easier for solar developers to do get their projects going. H5575 and S562 instruct the Office of Energy Resources to establish a statewide solar application and permit that all municipalities use for new projects.

The final bill, H5618, adds school, hospitals and all other nonprofits to the list of institutions that can qualify for the virtual-net-metering program. Often referred to as shared solar, virtual net metering allows institutions and groups to fund renewable-energy projects by selling portions of a renewable-energy system. The ownership structure allows property owners and renters with limited funds or no roof to buy into and receive the benefits of renewable energy. Low- and moderate-income housing developments are expected to benefit from the expansion of the net-metering rules.

Raimondo said the six bills aren't symbolic but concrete steps that make renewable energy easier to build and less expensive while creating jobs.

"This will guarantee that we will walk the walk in making Rhode Island a greener place," the governor said.

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

04-39A-07      Property Assessed Clean Energy Act  
Bill/Act: [HB 2831](#)

Illinois

**Summary:**

Creates the Property Assessed Clean Energy Act, provides that a local unit of government may establish a property assessed clean energy program, provides a local unit of government may impose an assessment pursuant to the terms of an assessment contract with the record owner of the property to be assessed, provides that a local unit of government may issue bonds to finance energy projects under a property.

**Status:** Became law on August 11, 2017

**Comments:** From the [Midwest Energy News](#) (June 13,2017)

Illinois could get a PACE program for financing energy efficiency and renewable energy in commercial, industrial and multi-family buildings if the governor signs a bill passed overwhelmingly by the state legislature last month.

Advocates are hopeful that Illinois will become the 20th state with an active PACE program, but nothing is a given in a state with a governor and legislature so at odds that a budget has not been passed for three years.

David McEllis, governmental affairs representative for the Environmental Law & Policy Center, noted that Illinois municipalities technically could create their own PACE programs even without the law. “A single paragraph passed [in another bill] a few years back ostensibly authorized municipalities to create PACE programs, but no municipality ever took advantage of that,” he said.

Other states also have PACE-enabling legislation on the books but no operating programs.

Proponents — including clean energy groups, developers and the Illinois Association of Realtors — say that PACE would provide a valuable tool to help businesses and building owners afford energy efficiency overhauls and solar installations.

Under PACE, which stands for Property Assessed Clean Energy, the municipal government or another entity puts up the money for energy efficiency or renewable energy investments, and the property owner pays them off over time through a charge on their property tax bill. If the property is sold, any outstanding payments stay with the property and must be paid by the new owner, who also reaps the benefits of the energy investments.

Typically, the government entity sells bonds to cover the up-front costs itself, the same arrangement which is part of the Illinois bill. Private entities can also provide capital.

Addressing concerns

The new Illinois bill includes a double opt-in provision, meaning municipalities or counties need to pass their own ordinances or legislation adopting a program before PACE financing can be carried out.

PACE legislation has been proposed for several years now in Illinois, but the version passed by the legislature addresses concerns that some parties had with previous versions. The current legislation does not allow for PACE financing in single-family residential or condominium buildings. Previously there were objections to PACE being used in condos, since that could add charges to the bills of owners who do not want to be part of the project.

The bill also ensures that banks which hold the mortgages for properties are on board with PACE investments.

“There are a lot of safeguards in the bill for the property owner and also for a potential buyer of that property,” said Julie Sullivan, director of legislative and political affairs for the Illinois Association of Realtors. “The assessment is recorded so there’s no secret lien, there is written consent for the owner to enter into the contract, and the mortgage-holder provides written consent” for the work to take place.

The property owner also must verify whether work was properly done before it is added to their monthly bill.

#### Multiple options

Sullivan said that “the beauty of the bill” is that it includes a wide range of upgrades. “It goes anywhere from insulation to windows to high-energy, high-efficiency heating systems to solar, it runs the gamut.” Water conservation measures are also covered.

In multi-family residential rental buildings, the building owner would be paying for energy efficiency upgrades that would mean energy bill savings for the individual tenants. Since the owner would not see the savings from their investments directly, they would likely raise rents to cover the costs, and tenants would theoretically be willing to pay higher rents for a highly efficient modernized unit.

Meanwhile the sweeping energy bill passed by the Illinois legislature and signed by the governor last fall includes incentives for extensive new distributed solar development.

ELPC legislative director Al Grosboll said PACE could help such development happen.

“We think it goes hand-in-glove,” he said. “We know there’s going to be a substantial increase in solar development, particularly rooftop solar, and you could see these larger buildings taking advantage of that” with PACE financing.

#### Attractive to owners

Inland Green Capital LLC is a Chicago-area company that provides capital for PACE projects through eight different programs in four states. Inland's property development affiliates often use PACE financing for upgrades in their buildings. Inland Green Capital LLC lobbied for passage of the Illinois bill, and senior vice president Mark Pikus said the company would like to work with Illinois municipalities to get PACE up and running.

"Available working capital is precious to many property owners and in many times that available capital, if any, has business priorities other than improving their properties with energy efficient improvements," Pikus said. "Municipalities can also see benefits from PACE in terms of economic development, job creation, increased property values and the fact that there are zero net costs to the issuer."

He pointed to an example in Covington, Kentucky, where Inland Green Capital provided the capital for the Ivy Knoll Senior Living Community to install solar panels, automated heating and cooling for each unit and LED lighting, along with upgrading the elevators.

"Putting the energy savings aspect of PACE to the side, just from a capital expenditure standpoint, PACE can also be very beneficial," Pikus added. "If a property owner simply needs a new roof or windows, PACE can also help in that regard as well."

#### The future

Grosboll said that if the Illinois bill is signed, advocates might work to make PACE available for single-family homes in the future. First, they would likely watch how the current bill plays out and help refine it through trailer legislation. While residential programs got a head start nationwide, commercial PACE investments have boomed in recent years, and advocates hope Illinois will see results similar to California's highly successful program.

However, federal legislation proposed in April could kill or curb PACE financing, advocates warn, by defining it as a mortgage loan and subjecting participating municipalities and other parties to stepped-up requirements, including requiring them to be licensed as mortgage brokers. The group PACE Nation's website says the proposed bill "is part of a coordinated effort by the banking lobby to kill PACE as a competitor and amounts to the latest attack on clean energy."

But in Illinois, advocates think PACE has enough widespread support and appeal to be adopted and implemented in the near future.

"It's been a long hard fight," said Grosboll. "We've been at it on this bill for three years. These things are never easy and always take a while, but we think we're almost home now."

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:

- next SSL meeting
- next SSL cycle
- Reject

Comments/Note to staff

04-39A-08    Repealing Ban on Nuclear Power  
Bill/Act: [SB 11](#)

Kentucky

**Summary:**

Kentucky most recently ended its moratorium with the passage of S.B. 11, signed by Governor Matt Bevin on March 27, 2017. Previous law required the federal government to establish a permanent repository before a nuclear plant could be built. The new law allows for the construction of new nuclear plants so long as the plans for waste storage are approved by the Nuclear Regulatory Commission.

Fourteen states have currently placed restrictions on the construction of new nuclear power facilities: California, Connecticut, Hawaii, Illinois, Maine, Massachusetts, Minnesota, Montana, New Jersey, New York, Oregon, Rhode Island, Vermont and West Virginia. Hawaii and Minnesota are also considering measures in 2017 to remove the current bans in place.

**Status:** Became law on March 30, 2016.

**Comments:** From [USA Today](#) (March 8, 2017)

A bill that would overturn a three-decade-old law that effectively bars construction of nuclear power plants in Kentucky is on the verge of passing the General Assembly and being sent to Gov. Matt Bevin for his signature.

Senate Bill 11 would get rid of a mandate that any nuclear power plants have access to a permanent disposal facility for their radioactive wastes, which can remain dangerous for hundreds of thousands of years. They'd only have to have a plan to manage those wastes.

Already successfully through the Senate, Sen. Danny Carroll's bill passed a House committee on Tuesday and was sent to the House floor for a vote, where one of its long-time critics, Kentucky Resources Council director Tom FitzGerald, said he expects it will pass.

"We've had 15 years of arguing over this," FitzGerald said Wednesday, observing that his organization withdrew its opposition this year as new wording was added to make sure all costs of nuclear energy would be weighed before allowing any plants to be constructed in Kentucky.

He said there was little chance of a nuclear plant being built in Kentucky anytime soon because they cannot compete economically with other forms of energy such as natural gas, scrubbed coal or renewables.

Still, Carroll, a Paducah Republican, whose district includes a former nuclear fuel factory in Paducah, said Kentucky needs to be ready to diversify its energy portfolio.

In a news release, he said that U.S. energy demand is expected to increase. "That means the United States will need many new power plants of all types to meet the increased demand and

replace older facilities that are retired. To ensure a diverse portfolio, many of these new power plants will have to be nuclear," he said.

FitzGerald said it's more likely that the bill might allow the Paducah facility — which will be in a cleanup mode for many decades — to attract some additional research and development money to Kentucky.

Despite spending billions of dollars over two decades, the U.S. government failed to open a permanent disposal facility for high-level nuclear waste at its Yucca Mountain site in Nevada.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

The bill, AB 546, requires that any city or county with a threshold population of 200,000 make available on a website documentation and forms associated with permitting energy storage and provide for online submission of permit applications.

The bill also authorizes the governor's office to provide guidance on energy storage permitting and best practices and potential factors for local governments to consider when establishing fees for permitting and inspection of energy storage projects.

**Status:** Became law on September 30, 2017.

**Comments:** From [Energy Storage News](#) (September 19, 2017)

Legislation recently introduced in California to cut red tape and reduce permitting times for energy storage systems and currently awaiting the state Governor's rubber stamp could also halve the costs associated with paperwork, commercial system provider Stem has said.

[Assembly Bill 546 \(AB 546\)](#) was authored by Democrat David Chiu, representing the 17th Assembly District of California, which includes the eastern half of San Francisco. The bill, which seeks to streamline permitting processes by, among other things, allowing for online forms to be submitted for approval, passed the Assembly floor successfully on 7 September. It now awaits the attention of the California Governor, climate hawk Jerry Brown.

Chiu was also behind a previous bill, AB 1236, that in 2015 helped streamline and make uniform the permitting processes for electric vehicle (EV) chargers in California. Chiu's office said that AB 546 builds on the success of the EV bill and was "encouraging" the state's Office of Planning and Research to develop guidance for energy storage developers and investors that draws on existing best practices.

The bill would also make it mandatory for local governments to accept permitting documents electronically via the internet and create uniform standards for submissions that hold true in multiple jurisdictions.

"As California becomes increasingly reliant on intermittent renewable energy resources, it will need options to allow it to manage fluctuations in electric supply and demand," a statement released by David Chiu's office said.

"Energy storage is a major part of that solution. Energy storage allows customers to use power when it is the cheapest and most plentiful and creates resource stability for grid operators."

Cities or counties with populations over 200,000 people would have to make forms available online by 30 September 2018, while smaller cities or counties would have until 30 January 2019

to “make all documentation and forms associated with the permitting of advanced energy storage, as defined, available on a publicly accessible Internet Web site, as specified,” the bill’s text reads.

Stem, a provider of ‘intelligent’ commercial energy storage systems that cut business customers’ bills by reducing their peak demand charges while raising revenues by providing grid services from those same systems, got in touch with Energy-Storage.News to praise Chiu’s bill.

“Stem lauds Assemblymember Chiu for his foresight in authoring AB 546 to help Californians control their energy costs by developing customer-sited energy storage,” the statement read.

“With the increasing attractiveness of intelligent energy storage to customer, utility, and grid operator needs, cities and counties will need a consistent, ‘best practices’ approach in reviewing thousands of permit applications over the next few years. The storage industry is fortunate to have strong leaders like Assemblymember Chiu who can see ways to smooth the path for climate solving technologies to deploy at lower cost without sacrificing important safety reviews.”

California is by most measures the [US’ most-advanced market for energy storage](#). Customer incentives like the [SGIP \(Self-generation incentive program\)](#) are aligned with the mandates given to investor-owned utilities (IOUs) in the state to procure large amounts of energy storage on their networks. Although a recent Senate Bill that would have created a [rebate programme for customer purchases of energy storage systems in the state](#) failed to go through, industry commentators and experts have said that energy storage technologies have a “bright future” ahead in California.

Stem said that to date, it had found that California’s various jurisdictions have “diverse” permitting processes, with a “wide range of permit fees”, requiring developers to go back-and-forth providing materials in person and often spending extra time getting approvals for what can sometimes be quite minor revisions to plans.

Between the reduction in permitting time and red tape and the development of a best practice standard by the California Office of Planning and Research which could “centrally educate cities and counties on the most recent storage-related codes and standards,” Stem estimated that it could reduce permitting costs associated with customer-sited energy storage by half.

“We find that when a city or county gains experience with storage permitting, it gradually reduces the currently disparate and confusing processes to only the most relevant steps and fees; putting documents and steps online similarly speeds the process and cuts unnecessary costs,” a Stem spokesman said.

The company also said it believed California’s experiences if successful could be replicated across the country, with many states and territories likely to be facing “similar learning curves”.

### **Disposition of Entry:**

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

05-39A-01 Indiana Kentucky Transborder Groundwater Authority  
Bill/Act: [HB 1211](#)

Indiana

**Summary:**

Relates to transborder water resource authority, establishes the transborder water resource authority as a body consisting of members of the general assembly, ex officio members, and individuals appointed by the governor, requires the authority to study the subject of ownership rights in one or more transborder water resources shared by Indiana and other states, explore the desirability of entering into interstate compacts, and make recommendations concerning the content of any such compact.

**Status:** Became law on April 24, 2017.

**Comments:** From [Greater Louisville Inc.](#) (March 29, 2017)

In a forward-thinking move to protect water resources, both houses of the Indiana State Legislature unanimously passed House Bill 1211 this session which establishes an Indiana-Kentucky water authority to study ownership rights of the resources shared by the states. The bill was authored by Representative Steven Stemler, (D) Jeffersonville.

“This is the sixth year I have proposed a trans-border water resources authority bill and I am very pleased that it passed through the legislature unanimously,” Rep. Stemler said. “House Bill 1211 specifically addresses the security, availability, and future of our water resources for generations to come.”

The established authority will consist of 12 officials from the General Assembly, ex officio members, and individuals appointed by the Governor. This group will study the subject of ownership rights of shared water resources and offer recommendations.

GLI’s Director of Government Affairs and Public Policy, Iris Wilbur testified in favor of the bill along with One Southern Indiana President Wendy Dant Chessier and representatives from the Louisville Water Company.

“Communities in Southern Indiana and the Greater Louisville region owe a large portion of our economic development to our abundant water resources,” Wilbur testified. “For this reason, it is of the utmost importance that we protect the longevity and sustainability of our regional water resources.”

The Greater Louisville Region was founded due to the commerce passing through at the Falls of the Ohio. The large industrial base in Southern Indiana and Louisville has been drawn over the years by the promise of an abundant water supply.

“This bill is the first step in making sure we are working together to actively protect our water, the natural resource that makes this region attractive to businesses and people,” Dant Chessier said.

HB 1211 was drafted to avoid ongoing fights over water that the country has witnessed in western and southern states. Beginning as early as the 1980s, Florida entered into conflict with Georgia over the ACF River Basin incurring tens of millions of dollars in legal fees. It's estimated that Florida's expenses have reached \$41 million in 2017, with \$72 million in legal fees incurred since 2001. Taking a reactive approach to water resource management, these states found themselves in a protracted court battle that will likely be decided by the U.S. Supreme Court later this year.

Disputes over rights to water can become heated in times of prolonged drought. While Indiana and Kentucky have not yet had such disputes, it is GLI and One Southern Indiana's position that exploring what provisions should be made for such an occurrence are necessary. Now is the time to think ahead and ensure the right measures are in place if southern Indiana and Kentucky need to address shortages and withdrawals.

Once authorized, GLI and One Southern Indiana will work with the Kentucky General Assembly to authorize the creation of a similar water authority. Once the conclusion of their studies and recommendations has been reached, the compact would become effective upon ratification of the two states and after Congress' approval.

HB 1211 returns back to the House for approval of a Senate amendment and anticipated to head to the Governor's desk before the end of session.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Directs the Maryland Department of Agriculture to provide farmers with research, education, technical assistance, and — subject to available funding — financial assistance to improve soil health on Maryland farms. Studies show that healthy soil practices capture carbon and reduce greenhouse gas emissions, while also providing numerous benefits to farmers, such as generating crops with greater yields and that are more drought resistant.

**Status:** Became law on May 4, 2017.

**Comments:** From [Fair Farms Maryland](#)

Gov. Larry Hogan signed legislation establishing the new Maryland Healthy Soils Program. House Bill 1063, sponsored by Del. Dana Stein (D-Baltimore County), directs the Maryland Department of Agriculture to provide farmers with research, education, technical assistance, and — subject to available funding — financial assistance to improve soil health on Maryland farms. Studies show that healthy soil practices capture carbon and reduce greenhouse gas emissions, while also providing numerous benefits to farmers, such as generating crops with greater yields and that are more drought resistant.

The Senate passed the bill passed unanimously, and it received a 137-1 vote in the House of Delegates. It is one of the first such state-sponsored programs in the United States. One of the program's purposes is to increase biological activity and carbon sequestration by promoting practices based on emerging soil science that include planting mixed cover crops, adopting no till or low till farming and carefully managed rotational grazing.

“This new law — which is literally ground-breaking — will help the state reduce greenhouse gases 40 percent by 2030, a goal set by the state legislature and signed by Gov. Larry Hogan last year,” said Del. Stein. “Healthy soil can better absorb rainfall, lessen drought damage, reduce flooding and erosion, limit nutrient runoff and greatly reduce the impacts of climate change.”

A diverse group of stakeholders worked on legislation, including environmental and climate change advocates, the Maryland Department of Agriculture and the Maryland Farm Bureau.

“Healthy soils are important for growing crops and increasing yields and profitability for farmers,” said Colby Ferguson of the Maryland Farm Bureau. “The Maryland Healthy Soil Program will give more support to farmers to explore and adapt to lucrative new techniques, while also helping farmers to manage nutrient loads on their fields.”

“This legislation represents the shared values of both farmers and environmentalists, and shows what can happen when we work together toward a common goal,” said Betsy Nicholas, executive director of Waterkeepers Chesapeake and founder of the Fair Farms campaign.

“We all want to restore our waterways, and encouraging these types of soil practices will improve the health of the Chesapeake Bay and our rivers and streams in many ways.”

Groups advocating for the new law included: Alice Ferguson Foundation, Biodiversity for a Livable Climate, Center for Food Safety, Chesapeake Bay Foundation, Fair Farms, Future Harvest CASA, Maryland Farm Bureau, Maryland Department of Agriculture, Maryland Grain Producers, Maryland Pesticide Education Network, Organic Consumers Association, and Regeneration International.

The bill will go into effect on October 1, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

05-39A-03    Wildlife Salvage Permits  
Bill/Act: [SB 372](#)

Oregon

**Summary:**

Requires State Fish and Wildlife Commission to adopt rules for issuance of wildlife salvage permits to salvage deer or elk accidentally killed as result of vehicle collision.

**Status:** Became law on June 22, 2017

**Comments:** From [The Spokesman-Review](#) (June 21, 2017)

Some folks in Oregon might not want to ask, when served an elk burger or a venison steak, where the meat came from. Under a roadkill bill passed overwhelmingly by the Legislature and signed by the governor, motorists who crash into the animals can now harvest the meat to eat.

And it's not as unusual as people might think. About 20 other states also allow people to take meat from animals killed by vehicles. Aficionados say roadkill can be high-quality, grass-fed grub.

"Eating roadkill is healthier for the consumer than meat laden with antibiotics, hormones and growth stimulants, as most meat is today," noted People for the Ethical Treatment of Animals, or PETA.

Washington state began allowing the salvaging of deer and elk carcasses a year ago. Pennsylvania might top the country in road kills, with Oregon wildlife officials telling lawmakers that the eastern state had over 126,000 vehicle-wildlife accidents in 2015.

"We are at or near the top of the list. We have a lot of roads and a lot of deer," said Travis Lau, spokesman for the Pennsylvania Game Commission, though he added the total number was uncertain.

Pennsylvanians can take deer or turkeys that are killed on the road if they report the incidents to the commission within 24 hours, Lau said in a telephone interview.

Gov. Kate Brown signed Oregon's bill last week after the Senate and House passed it without a single "nay" vote.

But a few Oregonians voiced opposition.

Vivian Kirkpatrick-Pilger, a Republican Party official in mountainous, forested Josephine County, told legislators that people have been salvaging roadkill meat in Oregon for years – since vehicles and animals have been colliding – and they never needed a law or permit to do it.

Actually, the Oregon Department of Fish and Wildlife said that before last week, the only people allowed to keep roadkill were licensed furtakers, and no one – not even licensed hunters – could keep game animals found as roadkill.

The rules were aimed at discouraging people from hitting a game animal with their vehicle to take the meat or antlers. “It’s not a legal method of hunting,” the department’s website says.

Les Helgeson, of the community of Beaver, near the northwest coast, told legislators that roadkill “would not be palatable, much less pass any sense of health standards for human consumption.”

But those who have sampled it say otherwise.

Todd Toven of Castle Rock, Colorado, posted a video on [YouTube](#) showing himself carving up a deer that had been hit by a vehicle on a highway and finished off by a deputy sheriff’s bullet. Toven made it into venison sausage.

“A lot of who people don’t hunt hear the word ‘roadkill’ and they get turned off,” Toven said. “We’re talking perfectly clean, cold meat.”

Oregon’s new law calls for the state Fish and Wildlife Commission to adopt rules for the issuance of permits for the purpose of salvaging meat for human consumption from deer or elk that have been accidentally killed in a vehicle collision.

The first permits are to be issued no later than Jan. 1, 2019. The antlers must be handed over to the state’s wildlife agency.

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Amends the Election Code. Provides that the State Board of Elections and the Office of the Secretary of State shall establish an automatic voter registration program pursuant to an interagency contract and jointly-adopted rules. Provides that an application for a driver's license, other than a temporary visitor's driver's license or a State identification card, shall also serve as an application to register to vote; allow an update to registration; and perform other specified functions. Requires specified agencies to provide certain information regarding registration. Establishes designated automatic voter registration agencies; and requires the establishment of dual-purpose applications to register to vote. Sets forth provisions and requirements for the State Board of Elections regarding the program. Amends the Freedom of Information Act to exempt certain information. Amends the Illinois Vehicle Code to make conforming changes. Effective immediately.

**Status:** Became law on August 28, 2017

**Comments:** From the [Washington Post](#) (August 28, 2017)

Locked out of power in much of the country, Democrats celebrated a victory today in the fifth most populous state when Gov. Bruce Rauner (R-Ill.) signed automatic voter registration into law.

“I think we have a good, strong piece of legislation that makes it easier for everyone who’s eligible to vote to be able to vote,” Rauner said in a signing statement, thanking Democrats who amended a bill that he’d once opposed.

And by signing on, Rauner made Illinois the 10th state to start implementing “AVR,” which in just two years has become a defining cause for progressive activists. Progressive think tanks have sold the idea as a cheap way to increase voter turnout. Democrats see it as a way to increase their margins with voters likely to agree with them, but unlikely to take time to register. Our Revolution, the activist group launched by Sen. Bernie Sanders (I-Vt.), is pressuring legislators to endorse Sanders’s national AVR bill, which like most progressive bills is stalled.

“If we believe in a vibrant democracy, we need to have the highest voter turnout in the world,” Sanders said last year, after Vermont joined the shortlist of AVR states. “Enough with cowardly politicians protecting themselves by suppressing the vote.”

Illinois is just the second state where Republican leadership has signed off on AVR; the first was Georgia, where in just four months of AVR, close to 600,000 people registered to vote. Oregon’s law, which went into effect last year, is seen by progressives as the model. It’s “opt-in,” meaning anyone who interacts with the state’s Department of Motor Vehicles is registered, unless he or she asks not to be. And it was promoted by Gov. Kate Brown (D-Ore.), a former secretary of state who rose to the governor’s office when her predecessor resigned due to scandal, and who

previously championed the state's vote-by-mail program. In 2016, Oregon's voter turnout rose by 4.1 percent, higher than any other state.

"I think we should be fighting like hell to make sure that we make voting more accessible to more Americans," Brown said in an interview with the Post earlier this year, after she appeared at the semiannual Democracy Alliance donor conference. "We're literally using the data from the DMV and handing it to the secretary of state's office to register voters."

The increased turnout did not lead to Democratic victories up and down the ballot; Oregon Democrats actually lost ground in the state legislature, and lost control of Brown's old office. But a study by Demos, a progressive think tank which supports AVR, found that the population of voters who came onto the rolls automatically was less white than the population registered under the opt-in system.

That could matter greatly in Illinois, a onetime swing state that now votes strongly Democratic in presidential elections, but sees turnout fall drastically in midterms. In 2014, Rauner won his gubernatorial race with just 1,823,627 votes. Two years later, Donald Trump won 2,146,015 votes in Illinois's presidential race, good enough only to lose to Hillary Clinton, in her home state, by a 17-point landslide.

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Concerning public access to files maintained by governmental bodies.

**Status:** Became law on June 1, 2017.

**Comments:** From the [CU Boulder Today](#) (September 1, 2017)

Over the summer, Gov. John Hickenlooper signed Senate Bill 17-040, which modernizes the Colorado Open Records Act (CORA) to include the release of documents in a digital format.

CORA became state law in 1969 and has been amended several times to provide the public access to records of state and local agencies within Colorado. As a public institution of higher education, the University of Colorado is among these agencies. Most records are considered public unless they fall under an exemption category, such as personnel records, security-sensitive documents, attorney-client privileged memos, etc.

While, prior to this summer, the law allowed for the release of records in a paper format, the new bill requires a requested public record to be provided in the format in which it's kept. For example, a Microsoft Excel database of employee names and salary figures may be provided to a requester in a digital and sortable format.

The new bill did not alter the existing exemptions under CORA law, such as withholding Social Security numbers, academic grade reports and information protected by the Family Educational Rights and Privacy Act (FERPA). These exemptions remain in place. It's important to note, however, most records (such as employee salaries and other expenditures of public funds, certain email correspondence and agendas and minutes from department meetings) are public records under CORA.

On the Boulder campus, Scott Bocim, assistant to the chancellor and custodian of records, is the official point of contact for all CORA requests. The university's CORA policy can be found [here](#).

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

06-39A-04      Blockchain Technology  
Bill/Act: [SB 398](#)

Nevada

**Summary:**

AN ACT relating to electronic transactions; recognizing blockchain technology as a type of electronic record for the purposes of the Uniform Electronic Transactions Act; prohibiting a local government from taxing or imposing restrictions upon the use of a blockchain; and providing other matters properly relating thereto.

**Status:** Became law on June 6, 2017.

**Comments:** From [Bitcoin News](#) (June 6, 2017)

Judging by recent legislation, which is mostly hostile towards blockchain technology, Senate Bill 398 in Nevada seems like an unprecedented step in a positive direction. SB398 prohibits taxation and regulations regarding the use and implementation of blockchain technology, and it was approved by Nevada governor Brian Sandoval.

The bill is meant to create an environment that is hospitable Nevada Senate Bill 398 Becomes Law, Prohibiting Tax on Blockchain Technology rather than hostile to new technology startups, and it is the first one to recognize smart contracts as legitimate and binding.

The bill was filed by Ben Kieckhefer on March 20. It appears he did not want the State to follow in the footsteps of places like New York who have generated regulations that harm bitcoin and other blockchain-based companies. The politicians in Nevada overall want the blockchain and technology industry to grow and benefit their State.

A Minutes of the Senate Committee On Judiciary record document read, “The bill will help ensure the State keeps pace with technological advancements and provide a legal framework for people using a blockchain to not do so in a legal gray area.”

The bill includes the following legal requirements for county commissioners to follow:

A board of county commissioners shall not: 13 (a) Impose any tax or fee on the use of a blockchain by any 14 person or entity; 15 (b) Require any person or entity to obtain from the board of 16 county commissioners any certificate, license or permit to use a 17 blockchain; or 18 (c) Impose any other requirement relating to the use of a 19 blockchain by any person or entity. Towards Blockchain Recognition and Acceptance...or not?

These type of bills that seem to be pro-blockchain may be a meaningful positive step toward creating more acceptance for cryptocurrencies. Seeing these kinds of bills are a nice change in tempo, because other bills have demonized crypto for contributing to money laundering schemes and other forms of crime.

For instance, in Florida, an appropriations committee recently Nevada Senate Bill 398 Becomes Law, Prohibiting Tax on Blockchain Technology passed an anti-money laundering bill to target

people who leverage bitcoin to hide finances. Also, Federal senate bill 1241 defines digital currencies as “monetary instruments,” and its intent is to target bitcoin exchanges to intercept criminal activity and undermine cryptocurrency freedom and neutrality.

Nonetheless, pieces of legislation that are bad and good for blockchain technology will continue to crop up in lockstep as politicians decide what is best for their constituency. In the end, crypto-enthusiasts can only hope for the disruptive technology to be shown in a positive light rather than be paraded alongside images of a dark criminal underworld, rife with its hackers and fraudsters and shysters and monsters.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

06-39A-05     Prohibits Local Tax Incentives until Tax Obligations  
Are Met  
Bill/Act: [SB 2283](#)     North Dakota

**Summary:**

AN ACT to create and enact a new section to chapter 57-01 of the North Dakota Century Code, relating to denial of tax incentives to taxpayers delinquent on the payment of state or local taxes; and to provide an effective date.

**Status:** Became law on April 4, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

\*06-39A-06 Sharing Digital Images of Marked Ballots on Social Media Hawaii  
Bill/Act: [HB 27](#)

**Summary:**

Allows a voter to distribute or share an electronic or digital image of the voter's own marked ballot via social media or other means. Establishes that distributing or sharing the image of a voter's own marked ballot is not a defense for any election offenses or related offenses under the Penal Code.

**Status:** Became law on June 22, 2016.

**Comments:** From Lisa Soronen, Executive Director, State and Local Legal Center

Many states have [laws](#) that ban people from showing their marked ballot. Many of these laws are over 100 years old. They were adopted so that voters couldn't use completed ballots to coerce other voters. Some bans prohibit the photographing of completed ballots in polling places as well.

The problem with laws that ban people from showing their marked ballot is that they likely violate *Reed v. Town of Gilbert* (2015). In this case the Supreme Court held that content-based regulations on speech are subject to strict (almost always fatal) scrutiny.

Saying that a person can't share an image or take a picture of a marked ballot (but can share a picture of an unmarked ballot or a picture of anything else) is a content-based restriction not likely to withstand strict scrutiny.

That said, courts have been skeptical that people have a right to take a picture of themselves with their ballot at a polling place. After all, a polling place is a public forum where there are long lines not a modelling studio and others might not want to be captured someone else's picture.

States than ban voters from showing others pictures of marked ballots should review these statutes in light of the *Reed* decision.

**Comments:** From [Associated Press](#) (Oct. 23, 2016)

## STATES WHERE BALLOT SELFIES ARE ILLEGAL

**ALABAMA:** Not allowed because voters have "a right to cast a ballot in secrecy and in private," said a spokesman for Secretary of State John Merrill.

**ALASKA:** A state law bans voters from showing their marked ballots, but Division of Elections Director Josie Bahnke says there is no practical way to enforce it.

**COLORADO:** Ballot selfies or any public dissemination of a marked ballot are considered a misdemeanor. A 2016 bill to repeal the ban failed.

FLORIDA: Photographs are not allowed in polling places or of mailed ballots.

GEORGIA: Law prevents photos of ballots or the screens of electronic voting machines.

ILLINOIS: Banned by a law that considers "knowingly" marking your ballot so that another person can see it is a felony that carries a prison sentence of one to three years.

KANSAS: Secretary of state says a selfie showing a picture of the actual ballot violates state law.

MASSACHUSETTS: Taking a photo of a completed ballot in a polling location is banned in Massachusetts. But the state's top election official, Secretary William Galvin, says there's little the state can do to prevent it. Photos of mailed ballots are also banned.

MICHIGAN: Michigan bans photographs of ballots, but a resident is challenging the law as unconstitutional.

MISSISSIPPI: Photos showing how someone marked their ballot after voting are prohibited.

NEVADA: Photos inside polling places are not allowed, except by the media. Photos of mailed ballots are also banned.

NEW JERSEY: Law prohibits voters from showing their ballot to others. A pending legislative measure would allow voters to take photos of their own ballots while in the voting booth and share it on social media.

NEW MEXICO: Law prohibits voters from showing their marked paper ballot "to any person in such a way as to reveal its contents."

NEW YORK: Photos showing a completed ballot or indicating how a person cast their vote are not allowed.

NORTH CAROLINA: Photographing or otherwise recording a voted official ballot is not allowed.

SOUTH CAROLINA: Law bars voters from allowing their ballots to be seen. A 2012 state attorney general's opinion says that makes it illegal to reproduce a ballot by cellphone, video camera or iPad.

SOUTH DAKOTA: Secretary of State Shantel Krebs says ballot selfies are not allowed because they can be considered influencing a vote or forcing someone to show proof of voting.

WISCONSIN: State law prohibits sharing photos of ballots.

STATES WHERE THE LEGAL STATUS IS MIXED OR UNCLEAR

**ARIZONA:** Bars photography within 75 feet of polling places. But the Legislature changed the law that barred showing photos of completed ballots in 2015 to allow posting of early ballots on social media.

**ARKANSAS:** Nothing in state law prohibits taking photos while in a polling place as long as it's not disruptive or being used for electioneering purposes, but state law on sharing voter choices is unclear.

**CALIFORNIA:** Gov. Jerry Brown signed a bill last month that repeals a 125-year-old law barring voters from showing people their marked ballots. The change will take effect nearly two months after the presidential election, but legislative analysts have found no occasion of the ban being enforced. The author of the bill, in fact, has been sharing constituents' photos of marked ballots on social media since the law passed.

**DELAWARE:** Has a policy against cellphones in voting booths, but elections Commissioner Elaine Manlove said: "I don't know that we can control what happens behind the curtain."

**IOWA:** Law prohibits the use of cameras, cellphones or other electronic devices in voting booths, so Secretary of State Paul Pate has asked voters not to take selfies with ballots. Photos of absentee ballots are OK.

**MARYLAND:** Bans electronic devices in a polling place except for the media. And even media members aren't allowed to photograph a ballot that shows how someone is voting. But photos of mailed ballots are OK.

**MISSOURI:** Law prohibits voters from allowing others to see their ballots if the intent is to show how they voted. Secretary of state spokeswoman Stephanie Fleming described ballot selfies as a "gray area" and advises voters to check with local election authorities.

**OHIO:** Has a longstanding prohibition against voters letting their ballot be seen with the "apparent intention" of letting it be known how they are about to vote. The state elections chief has advised local election boards to consult their own attorneys about how to apply the law.

**OKLAHOMA:** Officials recommend against it, noting that state law dating back about 40 years suggests it is illegal but outlines no penalties.

**PENNSYLVANIA:** Law prohibits someone from revealing their ballot "letting it be known how" they're "about to vote." But officials recently released guidance on electronic items in polling places that noted the recent court cases that "found a First Amendment right to take 'ballot selfies.'"

**TENNESSEE:** Voters are not allowed to take photos or videos while in polling places. Voters are not allowed to take photos or videos while in polling places. They're only allowed to use electronic devices for informational purposes to assist during voting, according to Adam Ghassemi, a spokesman for Secretary of State Tre Hargett. The state's law doesn't address mail-in ballots.

TEXAS: Bars photography within 100 feet of polling stations, so selfies are not allowed. Photos of mail-in ballots are OK.

WEST VIRGINIA: Electronic devices are banned inside voting booths, according to Secretary of State Natalie Tennant. Nothing in the law prohibits photos of mail-in ballots.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

06-39A-07 Revising Certain Boards and Commissions Statutes to Adopt the Alabama Requirements of North Carolina State Board of Dental Examiners  
V. Federal Trade Commission  
Bill/Act: [SB 80](#)

**Summary:**

Provides for further review by the Legislative Reference Service of each proposed rule or action submitted by a board controlled by a number of members of which are active market participants in the profession, to determine whether the action proposed may significantly lessen competition and, if so, whether the action was proposed pursuant to a clearly articulated state policy to displace competition.

**Status:** Signed into law on May 3, 2016.

**Comments:** From Lisa Soronen, Executive Director, State and Local Legal Center

In 1943 in *Parker v. Brown* the U.S. Supreme Court created the state action doctrine, which grants states and state actors immunity from federal antitrust liability. In 2015 in *North Carolina State Board of Dental Examiners v. FTC* the Supreme Court held that when a controlling number of state board members are market participants, the board must be “actively supervised” to be immune from antitrust law.

Hundreds of boards and commissions in each state regulate every profession from athletic trainers to veterinarians. To ensure state regulatory board members are exempt from antitrust liability, states may have to change the composition of the boards and/or actively supervise them. Either of those actions might reduce boards’ effectiveness and efficiency. Yet without such changes, state boards may be subject to antitrust liability for actions that are deemed to be anticompetitive. State law will have to be changed if it specifies that boards must consist of a controlling number of professionals in the field being regulated.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

06-39A-08 Revising Certain Boards and Commissions Statutes to Adopt the Connecticut Requirements of North Carolina State Board of Dental Examiners V. Federal Trade Commission Participants Bill/Act: [SB 15](#)

**Summary:**

Provides the authority to the Commissioner of Consumer Protection to reject any proposed final decision of a board submitted for the commissioner's approval if the commissioner finds such decision will have an anticompetitive effect.

Provides the authority to the Commissioner of Consumer Protection over any exercise of a board's statutory function that is adverse and any such exercise by a board shall be subject to approval, modification or rejection by the commissioner.

**Status:** Signed into law on June 6, 2016.

**Comments:** From Lisa Soronen, Executive Director, State and Local Legal Center

In 1943 in *Parker v. Brown* the U.S. Supreme Court created the state action doctrine, which grants states and state actors immunity from federal antitrust liability. In 2015 in *North Carolina State Board of Dental Examiners v. FTC* the Supreme Court held that when a controlling number of state board members are market participants, the board must be "actively supervised" to be immune from antitrust law.

Hundreds of boards and commissions in each state regulate every profession from athletic trainers to veterinarians. To make it more likely state regulatory board members are exempt from antitrust liability, states may have to change the composition of the boards and/or actively supervise them. Either of those actions might reduce boards' effectiveness and efficiency. Yet without such changes, state boards may be subject to antitrust liability for actions that are deemed to be anticompetitive. State law will have to be changed if it specifies that boards must consist of a controlling number of professionals in the field being regulated.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

The bill provides that a DNR or similar physician's order cannot be instituted for an unemancipated minor unless at least one parent or legal guardian of the minor has been informed, orally and in writing, of the intent to institute the order. A reasonable attempt to inform the other parent must be made if the other parent is reasonably available and has custodial or visitation rights. The information need not be provided in writing if, in reasonable medical judgment, the urgency of the decision requires reliance on providing the information orally. The bill provides that either parent or the unemancipated minor's guardian may refuse consent for a DNR or similar order, either orally or in writing. Further, the bill provides that no DNR or similar order can be instituted, orally or in writing, if there is a refusal of consent.

**Status:** Became law on May 1, 2017.

**Comments:** From the [cjonline](#) (March 31, 2016)

Gov. Sam Brownback signed into law Friday a bill blocking medical facilities or physicians from implementing do-not resuscitate orders for the purpose of withholding life-sustaining care of minor children without informed consent of a parent or guardian.

Flanked by two dozen legislators, Brownback said experience of a Missouri couple provided compelling evidence of the need to make Kansas the first state to guarantee family members this distinct voice in hospital decisions about potentially life-threatening conditions.

"It's a very important law to move forward in this state and across the nation. Kansas is a pro-life state, a culture-of-life state," Brownback said. "We believe that every life deserves a chance to live. Here's a situation where that was denied. Simon's law will insure families can secure the full support of the medical community as they fight for the lives of loved ones."

The contents of Senate Bill 85 dictate a parent or guardian must be informed of intent to institute a DNR order for a minor child. Such orders in Kansas cannot be placed if there is a refusal of consent. In the event parents disagree about the DNR, the dispute can be taken to district court.

Sheryl and Scott Crosier, the St. Louis-area couple who were the parents of Simon, found out a DNR ordered had been attached to their son's hospital chart without their consent. The boy died Dec. 3, 2010, in a Missouri hospital at 3 months of age.

"We know that every life has meaning and every life has purpose and dignity," Sheryl Crosier said. "We feel like this is a restoration, so to speak."

Scott Crosier, who grew up in Seneca, said he was disappointed Missouri legislators had yet to approve a similar bill.

“This type of injustice where unilateral DNRs are being placed in charts is on the rise,” he said. “It needs to stop. Every other state needs to get on board and follow Kansas statute. Our neighbor to the east, which is currently my home state, needs to get off their high horse and the doctors need to quit blocking this bill.”

The Kansas bill was a priority of anti-abortion lobbyists. It was approved 121-3 in the House and 29-9 in the Senate. A comparable bill introduced during the 2016 session failed to gain passage.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

An Act relating to prescription drugs; requiring the Department of Health and Human Services to compile certain lists of certain prescription drugs that are used to treat diabetes; requiring the manufacturer of a drug included on such lists and a pharmacy benefit manager to provide certain information to the Department; requiring the Department to compile a report based on such information; requiring a manufacturer of prescription drugs to submit a list of each pharmaceutical sales representative who markets prescription drugs to certain persons in this State; prohibiting a pharmaceutical sales representative who is not included on such a list from marketing prescription drugs on behalf of a manufacturer; requiring each pharmaceutical sales representative included on such a list to report certain information to the Department; requiring certain nonprofit organizations to report to the Department certain information concerning certain contributions and benefits received from drug manufacturers, insurers and pharmacy benefit managers or trade and advocacy groups for such entities; requiring the Department to place certain information on its Internet website; authorizing the Department to impose an administrative penalty in certain circumstances; providing that certain information does not constitute a trade secret; imposing certain requirements on a pharmacy benefit manager; requiring a private school to allow a pupil to keep and self-administer certain drugs; requiring certain insurers to provide certain notice to insureds; providing penalties; and providing other matters properly relating thereto.

**Status:** Became law on June 15, 2017.

**Comments:** From the [Lexology](#) (August 1, 2017)

In the absence of federal action, Nevada, along with a number of other states, is enacting legislation to combat skyrocketing drug prices and create transparency regarding the pricing activities of drug manufacturers and Pharmacy Benefit Managers (PBMs). Nevada's Senate Bill 539 places new reporting requirements on pharmaceutical manufacturers and PBMs for drugs that are determined to be essential for treating diabetes. Pharmaceutical sales representatives and some non-profit organizations are also faced with new reporting requirements under the law.

PBMs must now report certain information on or before April 1 of each year (starting in 2018) to the Nevada Department of Health and Human Services, including:

- The total amount of all rebates negotiated with the manufacturers of prescription drugs included in "List 1" during the preceding calendar year;
- The total amount of rebates retained by the PBM; and
- The total amount of rebates negotiated for the purchase of Tier 1 drugs by Medicare, Medicaid, other third party governmental recipients, other third-party non-governmental recipients, and beneficiaries under certain ERISA plans.

The new law also creates a fiduciary relationship between PBMs and third parties that contract with the PBM for pharmacy benefit management services. PBMs must notify these third parties in writing of any activity, policy, or practice of the PBM that creates a conflict of interest that interferes with the PBMs ability to discharge that fiduciary duty.

SB 539 imposes substantial penalties for noncompliance with the new reporting requirements. PBMs (and others) may be subject to penalties of up to \$5,000 per day unless the failure to timely comply is shown to be due to “excusable neglect, technical problems, or other extenuating circumstances.”

The information provided by PBMs, manufacturers, and others will be made publicly available on the internet by the Nevada Department of Health and Human Services.

PBM organizations adamantly opposed the legislation, primarily because both drug manufacturers and PBMs consider drug rebate information proprietary. Some have suggested that the new law and its reporting requirements may be challenged in the courts.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Relating to Health Care Professional Liability; Ensuring Access to Out –of-State health care providers; barring actions arising out of services rendered by a health care provider that is licensed, registered, certified or otherwise authorized to provide services in another jurisdiction for care provided out of state.

**Status:** Became law on March 3, 2016

**Comments:** From [New Mexico Medical Society](#) (March 3, 2016)

New Mexico always has and probably always will depend on patients receiving care across state lines. This legislation is critical to serving the health care needs of those living in the frontier and rural areas of our state. House Bill 270 assures that New Mexicans will have greater access to safe, timely and affordable medical care.

HB-270 was sponsored by Representative Terry McMillan, MD (R-37) the only physician serving in the New Mexico Legislature. Senator Stuart Ingle (R-27) carried a similar bill in the Senate (SB-121). HB-270 was a compromise measure with which New Mexico Medical Society, New Mexico Hospital Association, Texas Medical Association, Texas Alliance for Patient Access and many other organizations agreed.

Lawmakers deemed the bill necessary to protect access to medical care for the residents of Eastern and Southern New Mexico. Thirty-two of New Mexico's counties are, entirely or in part, designated as health care provider shortage areas. The shortage is especially acute in 13 counties on or near the Texas border. Residents of these New Mexico border counties have long-relied on Texas doctors and hospitals for a full range of sophisticated medical care.

Texas doctors will continue to receive a full range of liability protections even when treating New Mexico patients. That issue was in doubt until the New Mexico Legislature took decisive action February 17. In recent months, Texas doctors and hospitals have expressed a reluctance to treat visiting New Mexico patients. That followed a New Mexico court ruling that questioned where and under whose state laws a suit can be filed if an alleged medical mishap occurs. That case, Montano v. Frezza, is pending before the New Mexico Supreme Court.

Clearly the New Mexico legislature recognized that access to health care is a public policy priority.

"This legislation makes clear that New Mexico public policy favors enforcing contractual agreements. It also recognizes the validity of Texas doctors and hospitals to enter into contractual agreements with their visiting patients from New Mexico," said Randy Marshall,

Executive Director of the New Mexico Medical Society. "HB-270 addresses the coverage concerns of Texas physicians. Plus, it enables New Mexico patients to continue to receive specialized care that may be more accessible in a neighboring state," he said.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Create a new section of Subtitle 17A of KRS Chapter 304 to require insurance coverage for United States Food and Drug Administration-approved tobacco cessation medicines and services recommended by the United States Preventive Services Task Force; specify restrictions and limits of coverage; create a new section of KRS Chapter 205 to require Medicaid coverage for United States Food and Drug Administration-approved tobacco cessation medication and services recommended by the United States Preventive Services Task Force; specify restrictions and limits of coverage.

**Status:** Became law on March 21, 2017.

**Comments:** From the [Kentucky New Era](#) (Feb 20, 2017)

Kentuckians could get treatments to help them quit smoking without facing obstacles from their insurance companies, under a bill that a state Senate committee approved unanimously Feb. 15.

Senate Bill 89 would require all insurance policies sold in Kentucky to cover all smoking-cessation medications and counseling approved by the U.S. Food and Drug Administration "with no barriers to access," said Sen. Julie Raque Adams, the bill's sponsor. "The choice is simple: If Kentuckians want to quit smoking, they will have true access to the necessary tools. If they don't, no money or effort is expended."

The Patient Protection and Affordable Care Act requires all insurance policies to cover smoking-cessation treatment, but Adams said that doesn't mean they are readily available. The Louisville Republican said many insurers have barriers to treatment such as co-payments, prior authorization, limits on length of treatment, annual and lifetime limits on attempts to quit, and step-therapy requirements that dictate the order in which physicians can prescribe treatments. SB 89 would provide barrier-free access to all U.S. Preventive Services Task Force-recommended smoking cessation treatments in all Kentucky health plans, including Medicaid.

Dr. Shawn Jones, senior physician in the Ear, Nose and Throat Group at Baptist Health Paducah and past-president of the Kentucky Medical Association, said in a telephone interview that he runs into these barriers "all the time."

"A lot of times we will want to try certain medications, whether it is a medication that has been out for a long time, like Wellbutrin or [a newer one like] Chantix, and a lot of insurers won't pay for that, even though the studies say they are much more effective than the nicotine-replacement-therapy that the patient may have already tried over-the-counter, and that doesn't count because it wasn't from a prescription from the physician," he said.

Asked if he ran into annual limits on quit attempt barriers, Jones laughed and said, "I haven't been able to get a whole lot of people covered the first time, so I haven't had the trouble of

getting them covered the second time. My experience has been more with the Medicaid population and it's very difficult to get them the treatment they need."

Jones, who spoke in favor of the bill at the Senate Health and Welfare Committee meeting, said smoking costs the state \$1.92 billion in annual health-care costs, of which \$590 million goes to Medicaid (most of which is federally funded), and kills almost 9,000 Kentuckians a year. The state leads the nation in smoking; 26 percent of Kentucky adults smoke.

"If we are going to use the word crisis with respect to the opioid epidemic in Kentucky, and I think we should, then we must do the same with regard to smoking," he said, noting that smoking kills many more people. "Smoking in Kentucky is nothing short of a catastrophic pandemic of gargantuan proportions, and that does not do it justice."

Jones said 70 percent of U.S. smokers say they want to quit, and 34 percent of those try to quit, but only about 10 percent are successful. "It's not easy to quit smoking," he said. "Many smokers simply cannot quit without true, barrier-free access to the treatments prescribed by their doctors, and physicians play a critical role in helping people quit."

Jones wrote in an op-ed in the Lexington Herald-Leader that the insurance companies' set of obstacles "makes it extremely difficult for smokers to stay motivated to quit."

Erica Palmer Smith, speaking on behalf of the American Cancer Society Cancer Action Network and other patient advocacy groups, told the committee that insurance companies' barriers to access "cause confusion among providers and patients about the availability of treatment, meaning fewer Kentuckians don't attempt to quit smoking."

Adams said after the meeting that the bill has the support of the state Cabinet for Health and Family Services, and noted that the state Department of Insurance estimated the financial impact of SB 89 to be minimal, \$1.10 a year for the average policyholder. She said it will save insurance companies and Medicaid money in the long run.

Ben Chandler, president and CEO of the Foundation for a Healthy Kentucky, applauded the committee's vote. "If anyone wants to quit smoking, we ought to help them do it, instead of throwing up roadblocks," he said in a news release. "Senate Bill 89 will improve health in Kentucky and save taxpayer money."

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

07-39A-05     Amending the AIDS Confidentiality Act  
Bill/Act: [SB 3673](#)

Illinois

**Summary:**

Amends the AIDS Confidentiality Act. Provides that the identity of any person upon whom an HIV test is performed, and the results of such a test in a manner which permits identification of the subject of the test may be disclosed to a court in accordance with the provisions of the statute concerning the offense of criminal transmission of HIV. Amends the Criminal Code of 1961 concerning criminal transmission of HIV. Requires the defendant to have the specific intent to commit the offense. Requires the defendant to know that he or she is infected with HIV. Changes an element of the offense from engaging in intimate contact with another to engaging in sexual activity with another without the use of a condom when the defendant knows that he or she is infected with HIV. Provides that a prosecuting entity may issue a subpoena duces tecum for the records of a person charged with the offense of criminal transmission of HIV or a subpoena for the attendance of a person with relevant knowledge thereof so long as the return of the records or attendance of the person pursuant to the subpoena is submitted initially to the court for an in camera inspection. Provides that only upon a finding by the court that the records or proffered testimony are relevant to the pending offense, the information sought by the subpoena shall be disclosed to the prosecuting entity and admissible if otherwise permitted by law. Effective immediately.

**Status:** Became law on August 21, 2012.

**Comments:** From [The Pew Charitable Trusts](#) (September 6, 2017)

Robert Suttle clearly remembers telling his boyfriend that he was HIV positive the night they met. But after they split, three quarrel-filled months later, that became a point of contention: His “ex” pressed charges against him.

Suttle’s home state, Louisiana, is [one of 33 states](#) with laws that can be used to prosecute people living with HIV. And in Louisiana, intentionally exposing someone to HIV/AIDS is a felony punishable by up to 11 years in prison.

Because he wanted to put the whole ordeal behind him, Suttle accepted a plea bargain in 2009 and ended up doing 6 months in prison. He said he found out too late that pleading guilty meant registering as a sex offender wherever he goes.

Now some states are looking to either repeal such laws or reduce their severity. At issue is the balance between protecting public health and protecting the civil rights of individuals living with HIV.

The laws, which date to the 1980s and ’90s, vary greatly from state to state. Most impose criminal penalties on people who know their HIV status and potentially expose others to the virus. In some states, a conviction can mean up to 35 years in prison.

Twenty-four states require HIV-positive people to disclose their status to sexual partners, while six states require people to register as sex offenders as part of their punishment if they are convicted of an HIV-specific crime. In 22 states, felony laws, which cover assault and attempted murder for example, are used to prosecute people living with HIV who knowingly expose someone to the virus. And 25 states criminalize activities such as spitting, even though [they are unlikely to transmit the virus](#).

Other states have statutes that tack on extra punishment based on the defendant's HIV status. In Utah, for example, HIV-positive people convicted of prostitution, patronizing a prostitute, or solicitation are guilty of a felony, punishable by up to five years in prison, if they knew their status at the time of the crime. For an HIV-negative person, those same crimes would be a misdemeanor punishable by no more than six months in prison for a first-time offense.

Critics say the laws are relics of the past and demonize people infected with the virus. Some studies have shown that the laws don't reduce HIV transmission and may actually drive up HIV rates, because people who feel stigmatized are less likely to get tested. A study published in June by researchers with the U.S. Centers for Disease Control and Prevention found no evidence that the laws [reduce transmission of the virus](#).

"It's very embarrassing and dehumanizing," said Suttle, 38, who now lives in Harlem, New York, and works as an assistant director for the Sero Project, which advocates to end laws that criminalize people living with the virus.

In 1994, Texas became the first state to repeal its HIV criminal laws, according to the Center for HIV Law and Policy. But since then, people have been prosecuted for HIV exposure under general criminal laws such as attempted murder, which Catherine Hanssens, the center's executive director, said illustrates why straight repeal of the laws is not enough. Texas courts have upheld that seminal fluid of a man living with HIV may constitute a deadly weapon.

In 2012, Illinois became the second state to revise its HIV crime laws, by requiring prosecutors to prove a defendant intended to transmit HIV and limiting prosecution to a more narrow definition of sexual activity. Iowa followed suit in 2014. Last year, Colorado enacted a law that repealed two HIV criminalization statutes and revised another by requiring that all sexually transmitted infections be treated equally under the law, rather than singling out HIV for prosecution.

California lawmakers are also considering a bill that would make it a [misdemeanor to transmit HIV](#), rather than a felony. A similar [HIV bill failed in Florida](#) in May, but is expected to be re-introduced in the next session.

Also in May, the Ohio Supreme Court heard arguments in a [case challenging the state's criminal HIV law](#). The crux of the case: whether or not the law discriminates against people living with HIV, as well as whether requiring disclosure of one's HIV status violates the First Amendment.

The push to reform HIV crime statutes “has become a national movement, and it’s part of the larger conversation about over criminalizing people,” said Allison Nichol, law and policy counsel for the Sero Project.

“We need to take this out of the realm of someone committing a sex crime,” said Nichol, who used to prosecute sex crimes in Indianapolis. “These laws continue to feed a false narrative that people with HIV present a danger to public health, when in fact that is no longer true.”

But supporters of the laws argue they protect public health, and some states have moved in the opposite direction.

In May, Maryland Gov. Larry Hogan, a Republican, signed a law that, among other things, authorizes a judge to issue an emergency order to get someone tested for HIV if it’s believed that person has “caused exposure to a victim.” The law updates a previous one and is intended to [treat rape victims](#) who may have contracted HIV or hepatitis C. The same month, Tennessee enacted a law strengthening a statute requiring anyone who’s been [arrested to be tested for HIV/AIDS](#) if a law enforcement officer requests it.

“We’re talking about a criminal,” said Maggi Duncan, executive director of the Tennessee Association of Police Chiefs, who helped draft the legislation. “In the course of being arrested, they could have possibly exposed a first responder.”

The law was expanded to include all forms of [hepatitis, which is on the rise](#) in the state, Duncan said, “but HIV could easily become on the rise again with needle use, and that’s a real concern with heroin being on the upswing.”

## Years of Activism

Activists have pushed for years to change the laws, with a focus on educating lawmakers and prosecutors about how HIV is transmitted. One key fact: An HIV-positive person whose viral load is undetectable has almost no chance of spreading the virus.

“More and more, there’s a realization that HIV criminalization laws have not kept up with science,” said Dan Kirk, a former prosecutor with the office of the Cook County State’s Attorney, which has jurisdiction over Chicago. Last year, then-Cook County State’s Attorney Anita Alvarez called for the law to be revised further.

Today, prosecutors in Illinois have to prove that an offender intended to transmit HIV. Defendants can assert a legal defense if a condom was used, but they cannot use being in treatment as a defense. This despite condoms being less effective — 80 percent — than anti-retroviral drug treatment — 95 percent — at reducing the risk of transmission, according to the CDC.

Under the measure pending in California, it would no longer be a felony to fail to disclose a positive HIV status. Instead it would be a misdemeanor on a par with failing to disclose any other transmitted disease. To be charged with a misdemeanor, the defendant must have known

that he or she has a communicable disease and acted with the specific intent to infect another person, engaged in conduct that poses a substantial risk for transmission, and actually transmitted the disease to another person.

“We want people to get tested. We want people to get on medication. We want people to be honest about their HIV status,” said California state Sen. Scott Wiener, a Democrat who sponsored the legislation. “But you don’t accomplish those things by sending people to prison.”

## Gray Area

Scattershot state reporting makes it difficult to say how many cases are prosecuted under the [HIV transmission laws](#), according to Hanssens.

But it isn’t difficult to find individual examples. In June, for example, an HIV-positive Georgia man with mental health problems was charged with reckless conduct for allegedly spitting in the eye of a police officer.

In July, a 58-year-old South Carolina man was sentenced to 35 years in prison after he was found guilty of sexually assaulting a 5-year-old girl and potentially exposing her to HIV. Medical tests showed the child did not contract the virus. He was sentenced to 25 years for the rape and 10 years for the potential exposure.

Prosecuting — or defending — these cases can be difficult: How do you prove that someone has disclosed their HIV status? Often, as in the case of Suttle, it becomes a case of “he said, he said.”

A 2015 report by the Williams Institute at the UCLA School of Law found the overwhelming majority of people — 95 percent — [charged with HIV crimes in California were sex workers](#). The report also found that nearly every charge resulted in a conviction; the average prison sentence was longer than two years. Two-thirds of people charged were black or Latino. White men accused of an HIV-related crime were significantly more likely to be released and not charged, the report found.

“This is really a public health issue,” said Scott Schoettes, an HIV project director at Lambda Legal who has worked on HIV legal policy for years.

“It shouldn’t be addressed by criminal law unless there’s malicious intent.”

## Disposition of Entry:

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Existing law requires public water systems to take specified actions to test for and remediate certain contaminants in drinking water, including lead and copper. Existing law prohibits the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except as specified.

This bill would require a public water system to compile an inventory of known lead user service lines in use in its distribution system and identify areas that may have lead user service lines in use in its distribution system by July 1, 2018. This bill would require a public water system, after completing the inventory, to provide a timeline for replacement of known lead user service lines in the distribution system to the State Water Resources Control Board. This bill would require, by July 1, 2020, a public water system with areas that may have lead user service lines in use in its distribution system to either determine the existence or absence of lead user service lines in these areas and provide that information to the board or provide a timeline for replacement of the user service lines whose content cannot be determined. This bill would require the board to approve a replacement timeline, as specified.

**Status:** Became law on September 27, 2016

**Comments:** From [Environmental Defense Fund](#) (January 19, 2017)

In 2016, California became the first state in the country to make enforceable commitments to eliminating all lead service lines (LSLs) in the state. These [lead pipes](#) that connect the main under the street to homes are the primary source of lead in drinking water and unpredictably release lead particulate when disturbed. Under the leadership of [Senator Connie Leyva](#), the state's Senate voted unanimously, and the Assembly voted 72 to 7 to pass [SB1398](#) to require drinking water utilities to inventory LSLs in use and then provide the [State Water Resources Control Board](#) (Water Board) a timeline for replacement of the lines.

Based on a [national survey of utilities](#), the American Water Works Association reported that California has 65,000 LSLs out of 6.1 million nationally. Large utilities have the most with 46,000 LSLs, medium systems have 4,700 and small systems have 15,000. However, most utilities do not have an accurate inventory of LSLs, so the true number may be much greater.

[California's SB1398](#) recognized that an accurate inventory was critical and laid out a thoughtful two-step plan to accomplish the objective of full LSL replacement. By July 1, 2018, it requires public water systems (PWS) to submit an inventory of **known LSLs** and a timeline for their replacement. Two years later, PWSs must submit an updated inventory of LSLs and provide a timeline to replace any service line **where it may be made of lead**. The law does not set a deadline for replacement that PWSs must meet.

This two-step approach makes replacing known LSLs the highest priority and, by essentially presuming that a service line is lead unless known otherwise, also creates an incentive for PWSs to develop accurate inventories in the next three years.

How the Water Board implements the law is critical. We see three key issues:

### **1. What is a lead service line?**

The law applies to any “[user service line](#),” which is defined by the Water Board to mean “the pipe, tubing, and fittings connecting a water main to an individual water meter or service connection.” This definition seems straightforward on its surface. If the meter is inside the home, it includes the underground pipe from the main to the home. However, my understanding is that in California most meters are not in the home, they are near the property line. This means that a PWS could declare a home as served by a non-lead line when, in fact, part of the line is made of lead.

In contrast, the [federal](#) and [California](#) regulatory definitions of “lead service lines” covers the entire line from the water main to the building inlet – not the meter. We understand that the legislature did not use the LSL definition because it would be inconsistent with the presumption that a line was an LSL if the materials were not known. In other words, it is not an LSL until it is known to have a lead pipe. As a result, California’s definition of “user service line” referenced in SB1398 could be applied in a manner that is narrower and less protective than that used by the U.S. Environmental Protection Agency’s (EPA).

The issue is critical since replacing only the part of the line to the meter (a “[partial replacement](#)” [does not reduce lead levels](#)) and, in the short-term, may actually increase them. We hope that the Water Board will quickly revise its definition of user service line to include the entire line from the water main to the building inlet.

Given the attention on LSLs as a result of Flint, it is difficult to imagine that a California utility would comply with the new mandate by ignoring the portion of the LSL from the meter to the home. Similarly, we hope that they will not conduct partial LSL replacements, except as a temporary measure with a protections for residents and short-term plan for full replacement.

### **2. What replacement timeline is sufficient?**

The [law](#) calls for lead water pipes to be “identified and replaced as promptly as practicable” and that the work be done on “a schedule that is commensurate with the risks and costs involved.” With this guidance, the legislature leaves it to the Water Board and the PWSs to negotiate a timeline. We assume that the Water Board will issue guidance or rules to facilitate the process so the timelines proposed by the PWSs are realistic.

### **3. Can the Water Board meet deadlines?**

The Water Board reports that there are [7,500 PWSs](#) in the state. When it receives each of the timelines from a PWS, it has 30 days to approve it or propose a revised timeline and explain its

reasoning. Then the Board and the PWS have 30 days to develop a compromise timeline. If the Water Board fails to act, the timeline is deemed approved.

If most of the timelines are submitted close to the 2018 and 2020 deadlines, the Water Board will have a major task on its hands to review the submissions and make a decision. If it falls behind, the replacement timeline is final.

The bottom line is that California's legislature has taken strong action to protect public health and left it to the Water Board to implement the law. It will be critical to make sure the Water Board and PWSs use a definition of service line that means the entire line from the water main to the building inlet and not just the meters. Otherwise, drinking water will still be flowing through lead pipes, which is what the legislature wanted to stop.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

07-39A-07     Doctor of the Day Amendment  
Bill/Act: [HB 669](#)

Mississippi

**Summary:**

An Act To Amend Section 73-25-38, Mississippi Code Of 1972, To Provide That Any Licensed Physician, Not Just A Retired Physician, Who Voluntarily Serves As "doctor Of The Day" For The Mississippi Legislature Shall Be Immune From Liability For Any Civil Action Arising Out Of Any Medical Care Or Treatment Provided While Rendering That Service; And For Related Purposes.

**Status:** Became law on March 20, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

07-39A-08    Brain Injury Training for Student Athletes  
Bill/Act: [SB 38](#)

New Mexico

**Summary:**

An act relating to youth athletes' safety; requiring brain injury training for student and other young athletes.

**Status:** Became law on January 28, 2017

**Comments:** From [The Albuquerque Journal](#) (August 19, 2017)

To better understand the dilemma high school athletes must confront regarding concussions, consider Sandia Matadors running back D.J. Hayden's response to a question recently put to him.

What would he do, he was asked hypothetically, if the Matadors were in a crucial game late in the season and one of his football teammates – one of his friends – was exhibiting signs of a concussion following a collision, and only he seemed to notice a problem?

Cleveland High School goalkeeper Gabby Garcia, middle in yellow, yells encouragement to her teammates before the start of a home game against Oñate in Rio Rancho on Friday. (Roberto E. Rosales/Albuquerque Journal)

The protocol says Hayden should go straight to his head coach, Kevin Barker, or to a Sandia trainer and report it in the best interest of his getting the teammate off the field and examined.

The reality for student-athletes like Hayden, however, is far more complex.

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“It’s kind of tough,” Hayden admitted. “I want my teammate to be OK. But if he wants to play, I don’t want to get in the way of that.”

And right there, you have just one example of the quandary athletes have in policing themselves and their teammates.

This scenario is part of an online course starting this school year that all New Mexico high school athletes must take in order to be eligible.

“I think anything to keep kids safe, whether it’s concussions, whether it’s CPR, whether it’s first aid … anything to keep kids safe for their future is needed and valuable,” said New Mexico Activities Association executive director Sally Marquez.

As of July 1 of this year, coaches are no longer the only people at a high school required to have educational background on concussions. New Mexico Senate Bill 38 forces prep athletes in every sport to complete an online course. If they don't, they can't play.

"It puts into reality the risks you take every time you play this sport," said Volcano Vista senior linebacker Joren Dickey.

### **It's the law**

The passage of Senate Bill 38 during this year's Legislative session makes it mandatory for any athlete in grades 6-12 to complete this course – which is delivered through the National Federation of State High School Associations (NFHS) – before they are permitted to compete in an official practice or game.

Football players were required to complete the course before July 31. For the athletes in volleyball, soccer and cross country, it was Aug. 7.

The free course, which takes about 30-40 minutes to complete, goes into great detail about the short- and long-term implications of a brain injury, and also how to help student-athletes recognize the signs and symptoms of a concussion, either in themselves or in teammates.

There are a handful of short video presentations by medical personnel during the course, some mock Twitter exchanges among students as they discuss just what a concussion is and how to recognize the symptoms, and also what steps to take to report one.

Near the end of the video, there is a 10-question test.

"There is definitely information in there that you need to know as an athlete," said Albuquerque Academy goalkeeper Lucas Schlenzig, who missed some time last season with the Chargers after suffering a concussion when he was kicked in the face.

"A lot of people think once the concussion happens you feel dizzy, you throw up, you have all these symptoms and then you're good after three days," Schlenzig said. "My recovery was three weeks long."

In his case, there was a two-week period, he said, when he wasn't allowed to go outside, watch television or even use his cell phone. The online course also mentions that the Internet, reading and video games should also be prohibited during the concussion protocol rehab process.

"That stimulates the brain too much," Schlenzig said.

One of the recurring themes in the online course, which a Journal reporter took, is a strong encouragement to report to a coach, trainer or parent if they think either they – or more importantly a teammate – might have suffered a concussion. This is largely because many athletes are either unaware they might have one, or they might not want to report on themselves at the risk of missing critical game time.

“We need to make sure the student athletes know that you’re protecting your friend,” said the NMAA’s Marquez.

Hayden said for a veteran football player, even one like himself who has never had a concussion, the course didn’t teach him anything that he didn’t already know.

“I’ve been in this sport all my life,” he said. “It was nothing new.”

But that was not the universal response.

“I didn’t really learn anything from (the course), but a lot of my teammates and I have been talking about the course, and a lot of them did not know the signs and symptoms,” said Cleveland High School girls soccer goalkeeper Gabby Garcia, who has suffered a pair of concussions in her prep career – one in rugby, the other in soccer.

### **Educational enhancement**

The course makes very clear that suffering a second brain injury right on top of an unreported first concussion could prove extremely detrimental to the athlete’s health.

“In the heat of the moment, you have to police yourself,” said the Hawks’ Dickey, who hopes to play football in college and said he wouldn’t object if a teammate intervened to get him off the field if necessary. “Personally, I have a lot more riding on it than high school (ball). You’d rather lose a guy for a couple of weeks than lose his entire career over it.”

Athletic directors at all NMAA member schools will have to ensure that both coaches and athletes have a course completion certificate on file. When the course is completed, the athlete can print out a certificate to verify their participation.

This is the latest Legislative measure regarding concussions in New Mexico.

Last year, the state extended the concussion protocol absence for athletes from a minimum of seven days to a minimum of 240 hours (or 10 days). All school districts are required to develop head injury protocols, and those districts are further mandated to inform both athletes and their parents of the potential risks of head injuries in sports.

For the past few years, parents or guardians of athletes have had to sign a fact sheet on concussions, delivered to their coach or athletic director, as part of their physical.

“I think we learned what to look for,” said Tom Barton, a Volcano Vista football parent who has seen both his sons battle concussions. He thought the efforts of the state to help parents become more educated on the issue of concussions is much needed. “Especially in a contact sport,” he said.

Albuquerque Public Schools AD Ken Barreras said APS parents have had to sign concussion fact sheets since 2010. Those sheets lay out the signs and symptoms of a concussion, observed both

from the athlete's point of view and the parent/guardian, plus how to proceed if a parent believes his/her child, or any child, has suffered a concussion in competition.

"Anytime it's your own child and have first-hand experience, you realize you're a little bit more focused," said Melinda Garcia, the mother of Cleveland's Gabby. "And you're looking for those indicators yourself."

Although New Mexico does not require it, Marquez said most state associations require CPR training for both coaches and students, and said that she thought New Mexico, which at present only asks coaches to know to administer first aid, will join that list soon.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

07-39A-09      Pilot Program for Support of Mental Health Courts  
Bill/Act: [Section 337.71 in H.B. 49](#)

Ohio

**Summary:**

Requires ODMHAS, during FY 2018 and FY 2019, to conduct a pilot program to provide mental health services and recovery supports to offenders in the criminal justice system who are participating in certified mental health court programs.

Specifies that access to mental health drugs must be provided as part of the services included in the pilot program, including antipsychotic drugs that are administered in a long-acting injectable form.

Requires ODMHAS to conduct an evaluation of the pilot program and prepare a report of its findings.

Earmarks \$500,000 in each fiscal year in GRF line item 336422, Criminal Justice Services, for the pilot program.

**Status:** Became law on June 29, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

07-39A-10 E-Prescribing Maine  
Bill/Act: [LD 1646](#)  
Sec. 13. 32 MRSA §2210, 3. Electronic prescribing,  
4. Continuing Education, 5. Penalties and Sec. 14. – Sec. 17.

## Summary:

This legislation provides the additional tool of e-prescribing to help ensure prescriptions are not falsified and that errors are decreased.

An individual licensed under this chapter whose scope of practice includes prescribing opioid medication and who has the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

An individual who violates this section commits a civil violation for which a fine of \$250 per violation, not to exceed \$5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

**Status:** Became law on April 4, 2016.

**Comments:** From the [MedCityNews](#) (June 22, 2017)

Maine's e-prescribing mandate for opioids offers window into similar legislation in other states

The nation's opioid epidemic rages on, states across the country are continuing to mandate the use of technology to fight back. Maine's mandate for the electronic prescribing of opioids goes into effect on July 1, 2017. To date, it is [one of three](#) states to pass legislation making written prescriptions for pharmaceutical opioids illegal.

In 2015, opioid abuse claimed the lives of 272 Maine residents, a 31 percent increase over 2014, according to data from the Office of the Attorney General for Maine. And with one-third of those deaths due to pharmaceutical opioids, much of Maine's legislation is focused on the ways and frequency prescription painkillers and other controlled substances can be prescribed.

The mandate, “An Act To Prevent Opiate Abuse by Strengthening the Controlled Substances Prescription Monitoring Program,” was signed into law on April 19, 2016, by Governor Paul R. LePage. The bill introduces several initiatives designed to address Maine’s rising drug abuse epidemic, including the [electronic prescribing of controlled substances \(EPCS\)](#).

Following New York state’s [I-STOP legislation](#) that went into effect in March of 2016, Maine was the second state in the nation to mandate EPCS. [Next up was Virginia](#), where Gov. Terry McAuliffe greenlit legislation in February of 2016 that mandates electronic prescribing of opioid medications beginning on July 1, 2020.

Now, many other states are forging ahead to make EPCS a non-negotiable requirement. [Connecticut](#), Illinois, Massachusetts, New Jersey, [North Carolina](#), [Pennsylvania](#), [Rhode Island](#) and [Texas](#) have [introduced EPCS legislation](#), with the goal of stamping out drug diversion, decreasing the fraud and abuse associated with these medications.

EPCS delivers a number of benefits for patients and care providers, including:

- Reducing “doctor shopping” and minimizing the risk of altered, stolen or fraudulent prescriptions
- Eliminating dual prescribing workflows to improve provider efficiency and satisfaction
- Increasing e-prescribing rates to meet Meeting Meaningful Use requirements
- Minimizing prescription errors and inaccuracies
- Improving patient satisfaction by eliminating repeated doctor visits and long pharmacy wait times

Electronic prescribing is commonplace in Maine, with about 70 percent of all prescriptions sent electronically in 2014, according to a [report on e-prescribing trends from the ONC](#). However, opioid-based medications are classified by the DEA as controlled substances and are therefore subject to different regulations and requirements for electronic prescribing.

The DEA interim final rule (IFR), [“Electronic Prescriptions for Controlled Substances”](#) was published in 2010. The primary objective is to reduce the potential for diversion, and subsequent abuse, of controlled substances. In accordance with these objectives, the DEA ruling contains a number of requirements designed to track and audit the connection between practitioners and the signatures they use for EPCS orders.

Some of these requirements include:

- The EHR and/or e-prescribing applications used to generate and process EPCS orders need to be certified as DEA-compliant.
- Pharmacies must use software certified as DEA-compliant to accept prescriptions for controlled substances that are sent electronically.
- Prescribers must complete an identity proofing process to confirm that they are authorized to prescribe controlled substances, and have been assigned the proper credentials to sign an EPCS prescription. The DEA allows two types of identity proofing:

institutional (hospitals can identify providers internally) or individual (using a third-party credential service provider).

- Prescribers must use two-factor authentication when signing an EPCS prescription. This includes a combination of two of the following: something the prescriber knows (such as a password), something the prescriber is (such as fingerprint biometrics) and something the prescriber has (such as an OTP token). It is important to note that the authentication methods used for EPCS must comply with FIPS-201 standards, and modalities such as proximity cards and some fingerprint biometric readers are considered out-of-band and cannot be used for EPCS.

These are just a few of the requirements for EPCS, all of which need to be met to comply with federal regulations for prescribing opioids and other controlled substances electronically. “A Quick Guide to EPCS” outlines [how to implement EPCS with solutions that meet DEA requirements](#) while giving prescribers a fast, efficient e-prescribing workflow for all medications, including what to look for from your solution vendors, how identity proofing works and the roles and processes you need to define to achieve success.

**Comments:** From [Medical Economics](#) (January 10, 2017)

Is electronic prescribing a potential solution to the opioid crisis?

Despite the opioid crisis facing the country, few physicians prescribe narcotics electronically. But doctors who do electronic prescribing of controlled substances (EPCS) say it helps prevent diversion of these drugs and say it isn’t hard to do.

Internist Jeffrey Kagan, MD, and his partner in Newington, Connecticut, have been doing EPCS for about a year, even though the state doesn’t require it. Their practice embraced EPCS, Kagan says, because it was more efficient than paper prescriptions, and it reduced the chance of drug diversion.

Previously Kagan had to print a narcotic prescription from his electronic health record (EHR). If the patient wasn’t in the office at the time, he or she would have to come to the office to pick it up. This process wasted staff time. Sometimes the prescription would get lost or the patient would say it had been lost, and then it would have to be reissued. There was also the risk of someone copying a prescription and selling it. EPCS prevents all of this, says Kagan, who is also a member of the *Medical Economics* Editorial Advisory Board.

Christine Doucet, MD, a primary care physician in Patchogue, New York, has also adopted EPCS, partly because of a state law that requires it. But she also admits that the murder of four people by an opioid addict at a nearby pharmacy five years ago played a role in her decision.

“The killings were down the street from me,” she notes. “And that was tragic. [We] had to do something.”

While some doctors view EPCS as a moral imperative, many other physicians are dissatisfied with their dual workflow of paper and electronic prescriptions. Yet they may be deterred from

adopting EPCS because of a perception that it is too complex. To bridge that gap involves understanding EPCS and what it entails.

### **The lack of EPCS awareness**

The U.S. Drug Enforcement Administration (DEA) approved EPCS in 2012. Two states, New York and Maine, mandate it. (Minnesota requires e-prescribing, but without an enforcement mechanism.) Moreover, all of the leading EHRs in the marketplace now include EPCS modules.

Yet nationally, only 6% of prescribers did EPCS last year, according to the 2015 annual report of Surescripts, a company that connects physician offices to pharmacies online. While that's nearly a fourfold jump in adoption from 2014, it still represents only a tiny portion of physicians and other prescribers.

There is considerably more awareness of prescription drug monitoring programs, which now exist in 42 states. These programs include online databases that list all of the narcotic prescriptions that individuals have filled in a particular state and sometimes in multiple states. For example, Kagan says Connecticut's controlled substance registry enables him to see data from 20 states.

Charles Rothberg, MD, a Patchogue ophthalmologist who is president-elect of the Medical Society of the State of New York, supports the goal of New York's EPCS mandate. Still, he wonders how much more effective it is in preventing narcotic diversion than the New York drug database, which doctors must consult when they prescribe a controlled substance.

Doucet agrees that the state registry is more effective than EPCS in preventing drug diversion. She points out that it's very difficult to mimic the special paper she uses to print out a prescription or to rewrite anything in it. But she believes that the EPCS mandate makes sense because some doctors may be careless in writing prescriptions for controlled substances.

John Franco, MD, a primary care physician and medical director of the Independent Practice Association (IPA) of Nassau/Suffolk Counties, says that the organization and its 800 members recognize the legitimacy of the EPCS mandate. "Our doctors' complaints have declined," he says. "They've adapted and have recognized that the law is here to stay and that EPCS has a societal benefit, although it might not be realized for some time."

### **How New York physicians are reacting**

New York's EPCS mandate—part of its Internet System for Tracking Over-Prescribing (I-STOP) statute aimed at controlling narcotics abuse—went into effect in March. At that time, 47% of New York prescribers had been enabled for EPCS. Most of the remaining doctors who prescribe controlled substances were expected to start using it within a few months, the Medical Society of the State of New York said at the time.

Rothberg says that most New York physicians are complying with the law. But a number of physicians have stopped prescribing controlled substances and are therefore not subject to the

statute. He stopped prescribing them a few years ago, when the state began requiring doctors to check the drug database. It was too much trouble, he says, to install a computer connection to the drug database and establish a process for checking with it.

Michael LaPenna, a healthcare consultant based in Grand Rapids, Michigan, has worked with about 60 New York practices in the past year, preparing them to transition to hospital employment. None of them are using EPCS, perhaps because they're counting on their future employers to take it on, he suggests.

One measure of prescriber compliance is the number of one-year waivers that the New York State Department of Health has issued to those who claim economic hardship, technological barriers beyond their control or other exceptional circumstances. As of July 31, the department had approved 6,200 waivers for about 38,000 practitioners—more than twice as many as it had greenlighted in March. By comparison, about 75,000 physicians are licensed to practice in New York. While not all doctors prescribe and not all prescribers are doctors, many physicians are still clearly struggling with EPCS.

### **Technical challenges**

Doucet and Kagan haven't had much trouble with EPCS since implementing it. But Doucet says she has encountered some technical challenges.

To begin with, she notes, the software doesn't let all prescriptions go through. For example, it wouldn't allow her to write a Vicodin prescription for a patient with acute fractured ribs, so she had to substitute Tramadol, which had previously proved ineffective with this patient. In other cases, the software has rejected prescriptions that included dosages that it didn't recognize. And sometimes pharmacies say they haven't received a controlled substance prescription online, although the software indicates it has gone through, Doucet adds.

Paul Uhrig, executive vice president and chief administrative, legal and privacy officer for Surescripts, says his company hasn't noticed any problems with EPCS transmission to pharmacies. But Franco attests that some IPA members have encountered both of the problems that Doucet mentioned.

Despite the extra work entailed in EPCS, Doucet says, she'd do it even if it wasn't mandated. Besides her concern over narcotics diversion, she says that EPCS makes more sense than having one workflow for non-controlled substance prescriptions and another for narcotics scripts.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle

( ) Reject

Comments/Note to staff

**Summary:**

This bill:

- defines sunscreen;
- requires a public school to permit a student to possess and use sunscreen at school;
- permits a school employee to apply sunscreen on a student under certain conditions;
- provides immunity for an employee who applies sunscreen on a student and provides immunity for the employee's employer.

**Status:** Became law on March 21, 2017.

**Comments:** From the [Deseret News Utah](#) (February 13, 2017)

SALT LAKE CITY — Rep. Craig Hall, R-West Valley City, is hoping to reduce the risks of skin cancer by allow students to bring sunscreen to school.

"I know everyone's first reaction to this bill is probably, 'What? Seriously? We have to have a bill to let kids bring sunscreen to school?'" Hall said.

Under current Utah law, students are prohibited from taking to school any medication — even over-the-counter items — unless they have a doctor's note and parental permission. The same restriction applies to sunscreen, which is regulated by the Food and Drug Administration and is classified as an over-the-counter product.

HB288 aims to circumvent the issue by permitting students to bring sunscreen to school without a doctor's note. The House Political Subdivisions Committee unanimously voted Monday to send the bill to the full House with a favorable recommendation.

Oregon, California and Texas have laws in place to allow sunscreen use at schools, and similar measures are being considered in Washington, Massachusetts and Arizona, Hall said.

"Skin cancer is the fastest-growing form of cancer, and experts note that much of the damage is generally based on a lack of adequate protection in the early years of life," he said.

HB288 also would allow school employees to help students apply sunscreen, with parental notification and consent. The measure also exempts the school employee from liability in the event the student has a negative reaction to the sunscreen.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

( ) Include in Volume  
( ) Include as a Note

- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

**Summary:**

Prohibiting a manufacturer or wholesale distributor from engaging in price gouging in the sale of an essential off-patent or generic drug; establishing that it is not a violation of a specified provision of the Act for a wholesale distributor to increase a price of an essential off-patent or generic drug under specified circumstances; authorizing the Maryland Medical Assistance Program to notify the Attorney General of an increase in the price of an essential off-patent or generic drug under specified circumstances; etc.

**Status:** Became law on May 27, 2017.

**Comments:** From the [Governor Larry Hogan](#) (May 26, 2017)

In accordance with Article II Section 17 of the Maryland Constitution, House Bill 631 – Public Health – Essential Off-Patient or Generic Drugs – Price Gouging will become law without my signature.

While I am very supportive of ensuring that essential health care needs, including access to affordable prescription drugs, are available to Maryland Citizens, this legislation raises legal and constitutional concerns.

Also, this legislation only addresses the pricing of generic and off-patient pharmaceuticals, and does nothing to address the cost of patented products and medical devices which may be associated with drug delivery. This oversight, whether inadvertent or deliberate, is troubling since the patented or brand-name pharmaceuticals make up a significant amount of the market and are often times the most expensive and essential pharmaceuticals.

I also have concerns with the constitutionality of this legislation. While the bill was a priority of Attorney General Frosh during the General Assembly Session, two concerns have been raised by my Chief Counsel's office regarding aspects of the bill which would likely be subject to a constitutional challenge.

My first concern relates to the provisions of the legislation which directly regulate interstate commerce and pricing by prohibiting and penalizing manufacturer pricing which may occur outside of Maryland. These provisions would likely violate the dormant commerce clause of the constitution (Art. 1 § 8, cl. 3 of the U.S. Constitution)

I am also concerned that the definition of “unconscionable increase” and “excessive” are vague, and would likely not withstand a “vagueness” challenge under the procedural due process concepts of the Due Process Clause of the Fourteenth Amendment. These terms are at the heart of the legislation, and because they have been so broadly drafted, it is very difficult for manufacturers to know whether they are in violation of these provisions, leaving the decisions entirely to the interpretation of the Attorney General.

I am not convinced that this legislation is truly a solution to ensuring Marylanders have access to essential prescription drugs, and may even have the unintended consequence of harming citizens by restricting their access to these drugs. The legislation does have a laudable goal, to combat price-gouging of consumers for life-saving drugs, and I am supportive of that goal. However,

Because of the aforementioned problems with the bill, I will not be signing the legislation, and instead allowing it to become law without my signature.

The issue is clearly one that can only be truly addressed on a national or even global level, given that the prescription drug market cannot simply be changed by one state enacting legislation such as this.

It is my hope that the General Assembly will again take up this issue in next year's legislative session to address these issues.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Enacts into law major components of legislation necessary to implement the state health and mental health budget for the 2017-2018 state fiscal year; relates to controlling drug costs; relates to the drug utilization review board; relates to Medicaid reimbursement of covered outpatient drugs; authorizes the suspension of a provider's Medicaid enrollment for inappropriate prescribing of opioids; relates to reducing Medicaid coverage and increasing copayments for non-prescription drugs to aligning pharmacy copayment requirements with federal regulations, and to adjusting consumer price index penalties for generic drugs (Part D); relates to fiscal intermediary certification under the consumer directed personal assistance program, reserved bed days and establishing a prospective per diem adjustment for certain nursing homes (Part E); relates to extending the Medicaid global cap (Part G); extends provisions of the New York Health Care Reform Act of 1996; relates to the distribution of pool allocations and graduate medical education innovations pool; extends provisions of chapter 600 of the laws of 1986 relating to the development of pilot reimbursement programs for ambulatory care services; extends provisions of chapter 520 of the laws of 1978 relating to providing for a comprehensive survey of health care financing, education and illness prevention and creating councils for the conduct thereof; relates to rates of payments for personal care services workers; relates to the comprehensive diagnostic and treatment centers indigent care program; extends provisions of chapter 62 of the laws of 2003, relating to the deposit of certain funds; amends chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional misconduct, relating to apportioning premium for certain policies; amends part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional misconduct, relates to extending certain provisions concerning the hospital excess liability pool; relates to the health care initiatives pool distributions; and relates to tobacco control and insurance initiatives pool distributions (Part H); extends certain provisions of law relating to health care (Part I); relates to emerging contaminant monitoring including certain physical, chemical, microbiological or radiological substances (Part M); relates to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to extending government rates for behavioral services and adding an alternative payment methodology; increasing Medicaid equivalent fees through ambulatory patient group methodology and adding an alternative payment methodology requirement (Part P); relates to providing funding to increase salaries and related fringe benefits to direct care workers, direct support professionals and clinical workers employed by not-for-profits funded by the office for people with developmental disabilities, the office of mental health and the office of alcoholism and substance abuse services (Part Q); relates to the drinking water quality council (Part R); relates to health homes and managed care programs; relates to pasteurized donor human milk and ovulation enhancing drugs; relates to home care worker wage parity; authorizes the commissioner of health to sell accounts receivables balances owed to the state by Medicaid providers to financial institutions (Part S); relates to the implementation of the "clean water infrastructure act of 2017" (Part T).

**Status:** Became law on May 20, 2017.

**Comments:** From [usatoday.com](http://usatoday.com) (May 18, 2017)

New York Medicaid regulators aim to use the threat of imposing increased scrutiny of prescription drugs — such as eyeing their relative effectiveness and their profit margins — to coax additional discounts from drugmakers.

The rules, signed into law in mid-April as part of the state's budget, don't go as far as the surcharge that Democratic Gov. Andrew Cuomo originally sought to control the "skyrocketing costs of prescription drugs," but they retain elements guaranteed to get under a pharmaceutical executive's skin.

For example, those who don't agree to voluntarily rebate or pass money back to the state when Medicaid drug spending is rising fast could face multiple layers of reviews regarding profit margins and how well their drugs work.

The rules are the latest response to growing dissatisfaction about drug costs from the public, lawmakers and those who run programs like Medicaid, the state-federal health insurance program for low-income people.

"It clearly is going to put more pressure on manufacturers to address prices if they want to stay in business in New York," said Jack Hoadley, a health policy analyst at Georgetown University who studies Medicaid.

The new law also is part of a growing inclination among states to take on prescription drug costs themselves rather than waiting for a response from Congress or the federal government.

New York's rules are novel, though, because they are the first to set an annual cap on Medicaid prescription drug spending. The target aims to keep total payments to medical inflation plus 5%, a goal that would have been exceeded in recent years, state officials say.

The law also stands out because — if that target is likely to be exceeded — it explicitly allows regulators to pursue a type of review drugmakers dislike. Such reviews, which are more common in the private sector, use scientific studies and other information to evaluate whether specific medications are overpriced proportionate to their medical benefit.

Drugmakers generally object to such reviews and often dispute their results.

To avoid having their drugs sent for such a review under the law in New York, targeted manufacturers could agree to add additional discounts.

The law "creates an incentive to want to collaborate with us and give us rebates," said New York State Medicaid Director Jason Helgerson.

Drugmakers had strong objections to the governor's proposal since its earliest iterations, and Priscilla VanderVeer, a spokeswoman for the Pharmaceutical Research and Manufacturers of America, the industry's trade lobby, said the group still has "significant concerns" about the

price cap and “the chilling effect it could have on New York’s economy,” which she said benefits from 240,000 industry-related jobs.

### **It’s Not Just New York**

States, which pay health costs for millions of employees, prisoners and Medicaid beneficiaries, are particularly sensitive to recent increases in brand and generic drug prices, as well as the introduction of very expensive products, such as treatments for hepatitis C.

New York’s Medicaid program, for example, has seen its drug spending rise on average 8% each year over the past three years, after taking into account existing rebates. The program, which uses federal and state funds, serves more than 6 million people. Drugs represent about 5% of the cost of the program — with the state paying out \$3 billion last year for prescriptions, Medicaid officials said.

Though its law is unique, New York’s efforts are “in keeping with the mood in a number of other states,” said Rachel Sachs, an associate professor at Washington University-St. Louis School of Law who studies intellectual property, health law and food and drug regulation.

For instance:

- Vermont lawmakers last year adopted legislation that requires drugmakers to provide justification for price increases it determines are driving up spending in state programs, such as Medicaid.
- Maryland lawmakers in March passed legislation, still awaiting the governor’s signature, that directs Medicaid to notify the attorney general when off-patent or generic drugs experience an “excessive price increase” — and sets financial penalties if the drugmaker can’t justify the hike.
- In Louisiana, officials have asked whether a rarely used federal law could be tapped to sidestep patents and allow government programs to get lower-cost generic versions of pricey hepatitis C treatments.

### **A Trigger For Action**

Under the New York law, everything plays off an annual spending growth cap.

The new rules are triggered if the combination of price increases and use of drugs is forecast to push spending to exceed that target. First, regulators will ask drugmakers seen as driving that spending to voluntarily offer rebates.

No specific drugs have yet been named, and it isn’t clear how they will be chosen.

“This policy will not affect the vast majority of drugs,” said Helgerson, adding that it will target “the manufacturers that attempt to use periods of patent protection to drive outrageous prices.”

Attorney John Shakow, who represents drug manufacturers, said his clients' reaction is "mystification and concern," in part because it is unclear how regulators will select which drugs or manufacturers to pursue for additional rebates.

"It seems prone to abuse, if they want to go after a manufacturer for political reasons or otherwise," said Shakow, a partner at King & Spalding who specializes in drug price cases. "Laws that are this amorphous and nonspecific and vest so much discretion in regulatory authorities strike us as being ripe for challenge."

Other laws already require drugmakers nationwide to give Medicaid programs their "best price" — equal to or less than what it is paid by private insurers. Most states, including New York, already seek supplemental rebates, often in exchange for priority placement on lists of which drugs can be dispensed.

But the new law goes further in seeking additional rebates on top of those.

If the targeted drugmakers balk at offering discounts, regulators are granted a range of options that ramp up pressure by requiring those uncomfortable reviews.

Regulators, for example, can refer specific drugs to an evaluation by the state's Drug Utilization Review Board.

The board would recommend a target rebate. If the state could not get the drugmaker to agree to at least 75% of that rebate amount, other sanctions could apply. Prior authorization — meaning a doctor would have to get special permission to prescribe — could be placed on the drug. Advocates fear that could make access to needed medications more of a hurdle for patients.

The state could also require drugmakers to disclose how much was spent on research and marketing, what it charges for the drug in other countries and its average profit margin over a five-year period. Such "transparency" rules are strongly opposed by the drug industry, which says they don't capture all the costs that go into drug development — and won't help consumers. With a few exceptions, the industry has successfully fought efforts in various states to pass such legislation.

And, finally, the strongest enforcement mechanism would allow the state to bar some medications entirely, so long as they were not the only drug for a particular condition or treatment. It isn't clear how that would square with other federal requirements.

If it all works according to plan, the state expects to save \$55 million this fiscal year and \$85 million the next under the law, Helgerson said.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note

- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

**Summary:**

Local school boards; school buildings; potable water; lead testing. Requires each local school board to develop and implement a plan to test for lead and, if necessary, remediate potable water from sources identified by the U.S. Environmental Protection Agency as high priority for testing, giving priority in such testing plan to schools whose school building was constructed, in whole or in part, before 1986.

**Status:** Became law on March 20, 2017

**Comments:** From [The Center for Public Integrity](#) (August 15, 2017)

This report is part of a project on drinking water contamination in the United States produced by the Carnegie-Knight News21 program.

**WASHINGTON, D.C.** – When Ceon Dubose Palmore got thirsty at school, an administrator had to escort the 15-year-old past trash-bag-covered fountains to a faucet two floors down.

Like many schools across the country, her Washington, D.C. middle school discovered lead in its drinking water, making most fountains unsafe to drink. It took months to install filters sporadically around the school.

Ceon rarely asked to get a drink from the working fountains since teachers didn't want kids disrupting class time.

“It made it a lot harder for kids,” Ceon said. “I also think it impacted me a lot because I have problems with hydration and stuff, so if I couldn’t drink water, it would distract me for the day. It would get me in a lot of trouble.”

While schools often struggle with the aftermath of finding lead in their drinking water, education advocates and health professionals agree that there’s an even costlier scenario: not knowing at all.

A News21 analysis showed 44 states don't require schools to check for lead, and the federal government doesn't require it either. Thousands of schools scrambled to test after learning that lead had seeped into the public water supply and created a public health crisis in Flint, Michigan, but lead experts say the majority of schools across the country still don't know what's in their water.

John Rumpler, senior attorney at Boston-based advocacy group Environment America, said Flint may have brought attention to the lead issue, but it didn't necessarily hit home.

“Most people thought this must be a problem somewhere else, in communities like Flint, but not necessarily where I get my water and certainly not where my kid goes to school,” he said. “It’s

really important to educate the public about how widespread this problem is and how there's likely a threat to their own children's drinking water right where they live, whether it's an urban community, a rural community or a suburban community."

The responsibility to test overwhelmingly falls on cash-strapped school districts, which often don't have the funds or incentive to make lead testing and remediation top priorities. In California, lawmakers trying to approve statewide mandatory lead testing have been met with strong opposition from some school districts that fear dealing with positive tests would cripple their bank balance.

"There is an aversion to both the monetary cost of fixing the problem and also to the public relations cost of fixing the problem," said Yanna Lambrinidou, a Virginia Tech researcher who has long studied lead in schools' drinking water. "The idea that schools would have to disclose to parents that there's lead flowing out of drinking water taps and have to deal with the alarm and outrage that naturally would come from that, and then the issues of distrust, and then parents and communities wanting to get more involved – all of these things are ... a headache."

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

07-39A-15    Requiring Lead Testing in Schools  
Bill/Act: [HB 270](#)

Maryland

**Summary:**

Requiring the Department of the Environment, in consultation with the State Department of Education, the Department of General Services, and Maryland Occupational Safety and Health, to adopt regulations, under specified circumstances, to require periodic testing for the presence of lead in drinking water outlets in occupied public or nonpublic school buildings; requiring the Department of the Environment, before adopting regulations, to gather specified information regarding the establishment of lead-free school environments; etc.

**Status:** Became law on May 4, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Authorizes the Executive Office on Aging to establish the Kupuna Caregivers Program to assist community members in obtaining care for elders while remaining in the workforce. Clarifies the kupuna service and support options provided by area agencies on aging within the program. Appropriates funds for establishing and implementing the Kupuna Caregivers Program.

**Status:** Became law on July 10, 2017.

**Comments:** From [NBC News](#) (July 11, 2017)

Hawaii last week passed legislation that will provide working family caregivers with financial assistance to help pay for costs associated with caring for their elders.

The Kupuna Caregivers Act, signed Thursday by Hawaii Gov. David Ige, is the first of its kind in the nation, Janet Kim, communications director for Caring Across Generations (CAG), a home care policy advocacy group, told NBC News. It provides qualified caregivers with a voucher of up to \$70 per day that can be used toward services that they would otherwise perform themselves, including adult day care and assisted transportation.

Support for elderly care is usually granted directly to care recipients, Kim said. However, the Kupuna Caregivers Act grants assistance to working family caregivers, who can be caring for family members who are above the Medicaid eligibility threshold. While the amount provided does not cover the entire cost of care families need, it does allow them to provide more hours of in-home care and other services, Kevin Simowitz, political director of CAG, said during a telephone briefing about the new legislation on Monday.

“This win in Hawaii is huge,” Sarita Gupta, co-director of CAG, said during the call.

“The burden of care right now is falling heavily on family members, and in particular, folks who we affectionately refer to as the ‘sandwich generation’ caught between demands of both child care and elder care,” she added.

The text of the Kupuna Caregivers Act states that providing long term care for elderly family members without compensation can result in chronic stress. Because of the high cost of institutional care, the children of elderly parents may leave their careers to provide the care themselves, the law says.

“There’s just a tremendous amount of support that family caregivers who are working full time need in order to really care for their loved ones, and not make impossible choices between keeping their jobs and being able to care for their loved ones,” Gupta said. “And if they make the choice to care for their loved ones and leave their workplace, they also need support in order to adequately afford and provide good quality care.”

In Hawaii, nearly a quarter million residents — 18.7 percent of the state's population — are age 60 and older, according to a report by the Center of the Family at the University of Hawaii. Of those residents, Asian Americans and Pacific Islanders (AAPI) account for more than half.

According to the AARP, Hawaii is home to about 154,000 unpaid caregivers. Heather Chun, director of technical assistance at the National Asian Pacific Center on Aging (NAPCA), said an estimated 92,400 of those are AAPI caregivers.

In the AAPI community, the majority believe they are expected to care for their parents, a 2014 AARP study found. But doing so without pay can take a toll on caregivers.

"In a 2016 listening session in Honolulu, one caregiver shared with NAPCA that 'AAPI caregivers often burn out because of parental pride' — or not wanting, or feeling shameful of accepting outside help," Chun told NBC News in an email. "Family-centered policies, such as Hawaii's Kupuna Caregiver Assistance Act, are ideal in reinforcing many AAPI families' strong values of filial piety, providing them with additional resources to balance family-centered care with continued employment."

Beth Hoban, 67, is among the estimated thousands of AAPIs who care for elderly relatives. For the last three years, she has cared full time for her 93-year-old mother, who suffered from congestive heart failure and a broken right arm. She bathes, feeds, and attends to whatever her mother needs.

Hoban, a Filipino American, said it's common for Filipinos for their families to live with them.

"Sometimes they'll even extend homes so mom and dad can stay in back of their house. That was ingrained in me growing up ... so I feel like it's my responsibility to take care of my mom," she told NBC News.

Hoban also holds a full time job as the business owner of a home health care agency. Owning a business allows her some flexibility in her schedule, but she cares for her mother whenever she isn't working. This leaves her with little time to care for herself, she said.

Through the assistance that will be provided through the Kupuna Caregiver Act, Hoban plans to use the funds toward respite care so she has time to do simple things like going to the grocery store and getting her nails done.

"I think it's really important for caregivers to care for ourselves so we can take care of people who are sicker than us," Hoban said.

With the new law in place, the focus now shifts to ensuring it is properly implemented and improves lives, said Ai-jen Poo, co-director of CAG, said during the group's call.

A budget of \$600,000 has been allocated for the program for the 2017-2018 fiscal year.

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Provides Medi-Cal coverage for the Diabetes Prevention Program, an evidence-based, lifestyle change program designed to prevent or delay the onset of type 2 diabetes among individuals with pre-diabetes.

**Status:** Became law on July 10, 2017.

**Comments:** From [LA Times](#) (July 11, 2017)

California officials decided this week to dedicate \$5 million to prevent people at high risk for [diabetes](#) from getting the disease, hoping to stem the huge numbers of Californians expected to be diagnosed in the coming years.

Currently 9% of Californians have diabetes, but a study last year found that 46% of adults in California have prediabetes, a condition in which blood glucose levels are higher than normal but not high enough to be considered diabetic.

“That is a staggering number,” said Flojaune G. Cofer, research and state policy director for Davis-based Public Health Advocates, which sponsored the bill, SB 97, that adds the new funding.

Cofer said that if nothing is done to stop prediabetics from developing diabetes, millions more Californians will become diabetic in the next five years and the state’s diabetes rate will likely double. Approximately 70% of prediabetics will become diabetic in their lifetime.

Gov. Jerry Brown on Monday approved \$5 million to pay for Medi-Cal recipients to enroll in the Diabetes Prevention Program starting July next year. Participants must be overweight and have high blood sugar levels, but not yet be considered diabetic.

The program helps people lose 5% to 7% of their body weight by eating more healthfully, exercising more and reducing stress — and has been shown to cut the risk of developing diabetes by more than half. California will become the third state to cover the program as a Medicaid benefit after Montana and Minnesota.

Daniel Zingale, senior vice president at the California Endowment, said Medi-Cal has long covered the high costs of dialysis for diabetic patients whose kidneys have failed, but not the lower costs of trying to get people to eat better and work out more to prevent getting diabetes in the first place.

“What’s revolutionary about this change is that it finally starts to recognize that by investing modest amounts on the front end on prevention, we can save enormous amounts in the long term,” Zingale said.

The state's \$5 million investment is expected to be matched by \$8 million from the federal government, Cofer said. Each year, the state expects to enroll roughly 25,000 people. Implementing the program should save \$45 million a year because of those who end up not developing diabetes — and requiring less medical treatment — as a result of the intervention, Cofer said.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

\*07-39A-18 Opioid Antagonists in Schools  
Bill/Act: [SB 805](#)

Michigan

### **Summary:**

Would amend the Public Health Code and Revised School Code to allow an opioid antagonist to be prescribed to a school board and administered by a school nurse (or person trained by a nurse) in case of an opioid-related overdose in the school.

**Status:** Signed into law on Dec. 28, 2016.

**Comments:** From [CSG Knowledge Center](#) (Jan. 23, 2017)

In an effort to save young lives at risk due to drug overdoses, the state of Michigan is giving its schools the chance to stock naloxone, an “opioid antagonist” drug. [SB 805 and 806](#), signed into law in December, set several parameters for school districts.

They must have at least two employees trained on how to administer naloxone; call 911 when a student is having an overdose; and alert parents or guardians about the incident. Under another new Michigan law (HB 5326), a prescription will not be needed for pharmacists to dispense opioid antagonists to the family members and friends of recovering addicts.

New state laws are being adopted [across the Midwest](#) to address the rise in opioid use and overdoses. Examples include prescription drug monitoring programs and “Good Samaritan” laws that waive drug-possession penalties for individuals who report an overdose. According to the [U.S. Centers for Disease Control and Prevention](#), three Midwestern states had among the nation’s highest number of drug-overdose deaths in 2015:

- Ohio, 3,310 deaths, second-highest;
- Michigan, 1,980 deaths, seventh-highest; and
- Illinois, 1,835 deaths, eighth-highest.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

\*07-39A-19 Opioid Antagonists in Schools  
Bill/Act: [SB 806](#)

Michigan

**Summary:**

A new Section 1179b to the Revised School Code would allow a school board to require that, in each school it operates, there are at least two employees who have been trained in the appropriate use and administration of an opioid antagonist by a licensed registered professional nurse, beginning in the 2017-2018 school year. It would also provide that a nurse employed or contracted by the school district, intermediate school district (ISD) or public school academy (PSA), or an appropriately trained school employee, may possess and administer an opioid antagonist.

**Status:** Signed into law on Dec. 28, 2016.

**Comments:** From [CSG Knowledge Center](#) (Jan. 23, 2017)

In an effort to save young lives at risk due to drug overdoses, the state of Michigan is giving its schools the chance to stock naloxone, an “opioid antagonist” drug. [SB 805 and 806](#), signed into law in December, set several parameters for school districts.

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- Ohio, 3,310 deaths, second-highest;
- Michigan, 1,980 deaths, seventh-highest; and
- Illinois, 1,835 deaths, eighth-highest.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

**Summary:**

Requiring a county board of education to consult with the county superintendent of schools before any change in the hiring or termination of personnel in connection with a school health services program; requiring specified programs established by the State Board of Education to include instruction on heroin and opioid addiction and prevention, including information on the lethal effect of fentanyl; prohibiting specified personnel from being held personally liable under specified circumstances; etc.

**Status:** Signed into law on May 25, 2017.

**Comments:** From [The Baltimore Sun](#) (June 23, 2017)

In the battle to stem the epidemic of opioid addiction and overdoses in Maryland, state officials have opened a new front: teaching students from elementary school through college about the dangers of the powerful drugs.

Public schools are tweaking drug-education lessons and colleges are preparing sessions for incoming students to comply with the Start Talking Maryland Act, which becomes law July 1.

The act, passed by state lawmakers this year and signed by Gov. [Larry Hogan](#), requires public schools to offer drug education that includes the dangers of heroin and other opioids starting as early as third grade.

It also requires public schools to stock the overdose-reversal drug naloxone, have staff who are trained to use it and to report naloxone uses to the state.

"The key is to start talking about it," said Del. Eric Bromwell, a Baltimore County Democrat and one of the lead sponsors of the measure. "You really need to get to people sooner, and you need to get to them over and over again."

The law requires schools to provide age-appropriate education at least once during each of three phases of a student's career — once between third and fifth grades, once between sixth and eighth grades and once between ninth and 12th grades.

The law requires all colleges and universities that accept state funding to have a heroin and opioid prevention plan that includes education for incoming full-time students and training in naloxone for campus police and public safety officers.

Senate President Thomas V. Mike Miller Jr. was lead sponsor of the bill in the Senate — an indication of the priority leaders placed on it. He said it was important to address education in [the heroin-related legislation that passed the General Assembly this year](#).

"It's everywhere," the Calvert County Democrat said. "It affects all segments of society, rich to poor. It's a crisis that we need to identify and make educators as well as parents aware of it, and provide the resources to deal with it."

Maryland's opioid epidemic shows no signs of abating, even as politicians and health officials scramble to prevent overdose deaths and provide more treatment options for those who are addicted to opioid drugs.

[The state suffered a record 2,089 deaths from drug and alcohol overdose in 2016](#), a 66 percent increase year over year that was driven largely by deaths associated with opioids, including heroin and fentanyl. Fentanyl is a potent drug that's mixed into heroin often without the user's knowledge.

In recent months, officials have seen a surge in overdoses of the synthetic opioid carfentanil. Developed as a sedative for large animals, carfentanil is said to be 100 times stronger than fentanyl, which itself is 50 times stronger than heroin.

Officials have attacked the problem in a variety of ways: expanding access to naloxone, providing guidance to doctors about limiting prescriptions to addictive painkillers, improving a prescription drug monitoring program and launching hotlines to connect people with treatment.

Hogan this year [declared a state of emergency](#) and opened an Opioid Operational Command Center. Baltimore's health commissioner reported last week that [the city is running low on naloxone](#).

Maryland colleges and universities are beginning to work on how to incorporate heroin education into programs for incoming students to comply with the new law.

On Monday, officials from the University System of Maryland, private colleges and community colleges and the state secretary of higher education were briefed on the law's requirements, said Lee Towers, legislative director for the Maryland Higher Education Commission.

The University System of Maryland, which includes a dozen institutions and two regional higher education centers, supported the legislation that created the new law. At the University of Maryland, College Park, officials are evaluating how to comply with it.

"Education is essential to addressing the heroin and opioid problem in Maryland," Dr. David McBride, director of the University Health Center, said in a statement.

Harford Community College is planning to work a half-hour session on heroin into student orientation, spokeswoman Nancy Dysard said.

Dysard said it shouldn't be difficult for the college to comply with the law because it has a close working relationship with the Harford County sheriff's office. The college already has public safety officers trained and equipped with naloxone, she said, and some nursing students and psychology students are also trained.

Howard Community College plans to develop an online course on heroin for incoming students, spokeswoman Elizabeth Homan said. "That really works well for our population," she said.

As with Harford, Howard Community College has already equipped its public safety officers with naloxone.

At lower grade levels, school systems are using summer break to update or revamp their drug education programs. The state Department of Education provided a \$4,000 grant to each of the 24 local school systems to help kick start those efforts.

Baltimore County is spending its grant on curriculum writers to revise lessons taught from elementary schools to high schools, said Joe Leake, health education supervisor for the school system.

Leake said it's important to update the lessons so students understand the pitfalls of opioids — not just illegal drugs such as heroin, but also prescription drugs such as morphine. "Some kids may think: 'It's prescribed by a doctor, how bad can it be?'" Leake said. "They have no idea of the addictive properties of opiates. They have no idea.

"Hopefully with the new resources we'll put in, we can combat that."

Leake said Baltimore County's instruction is geared toward different age groups. Lessons for the youngest elementary students focus on medicine safety and not taking someone else's medication. Later, students learn about peer pressure and making smart choices. Older students learn more details about the dangers of various drugs.

Baltimore County teamed with CVS this past year to bring pharmacists into some high schools to speak to students about opioid addiction — a program that could expand this year. The system is looking at bringing police officers into classrooms, too.

Anne Arundel County is using its state grant to buy more books on addiction for elementary students and materials on heroin for a parents' conference planned for the fall, said Gayle Cicero, director of student services.

Cicero said the system has been increasing its focus on heroin and opioids in the last couple of years, including producing a video featuring local parents of children who died from overdoses. She said those videos, shown to older students, help drive home the fact that heroin addiction is a problem in their community.

"This isn't just a story or a problem that happens somewhere else. They live in Anne Arundel County. The mom you hear speaking, they went to our schools," Cicero said. "That's a powerful addition to the education piece."

State Sen. Kathy Klausmeier sponsored heroin legislation this year and is co-chairing a panel with Bromwell to consider additional legislation for next year.

The Baltimore County Democrat said she knows parents who have lost children to heroin addiction. She said many teenagers don't appreciate just how risky heroin, fentanyl and other opioids can be.

"When I'm with a group of kids, I tell them, point blank: 'Stay away from heroin.' And they kind of look at you like you're crazy."

"I don't think they realize it's as severe as it is," she said. "We can't just say, 'Drugs are bad. Alcohol is bad.'

"This is the worst — and this could happen to you with one time."

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

07-39A-21 Prior Authorization for Drug Products to Treat an Opioid Use Disorder – Prohibition  
Bill/Act: [HB 887](#)

## Maryland

## Summary:

Prohibiting specified insurers, nonprofit health service plans, and health maintenance organizations from applying a preauthorization requirement for a prescription drug to be used for treatment of an opioid use disorder and that contains methadone, buprenorphine, or naltrexone; and applying the Act to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after the effective date of the Act.

**Status:** Became law on May 25, 2017.

## **Disposition of Entry:**

## SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

## Comments/Note to staff

**Summary:**

Modern health care delivery requires that nursing care, today and in the future, be dynamic and fluid across state boundaries. The enhanced Nurse Licensure Compact (eNLC) increases access to care while maintaining public protection at the state level. The enhanced NLC, which is an updated version of the current NLC, allows for registered nurses (RNs) and licensed practical/vocational nurses (LPN/VNs) to have one multistate license, with the privilege to practice in their home state and other NLC states. The eNLC has uniform licensure requirements so that all states can be confident the nurses practicing within the eNLC have met a set of minimum requirements, regardless of the home state in which they are licensed. All states that participate in the enhanced NLC conduct federal criminal background checks to determine eligibility for a multistate license. Nurses do not have to obtain an additional nursing license(s), making practicing across state borders affordable and convenient.

**Status:** Became law on March 21, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

The Interstate Medical Licensure Compact offers a new, voluntary expedited pathway to licensure for qualified physicians who wish to practice in multiple states. The IMLC mission is to increase access to health care for patients in underserved or rural areas and allowing them to more easily connect with medical experts through the use of telemedicine technologies. While making it easier for physicians to obtain licenses to practice in multiple states, the Compact strengthens public protection by enhancing the ability of states to share investigative and disciplinary information.

The IMLC is an agreement between 22 states and the 29 Medical and Osteopathic Boards in those states. Under this agreement licensed physicians can qualify to practice medicine across state lines within the Compact if they meet the agreed upon eligibility requirements.

Approximately 80% of physicians meet the criteria for licensure through the IMLC.

The Application process is expedited by leveraging the physicians existing information previously submitted in their state of principal license (SPL). The SPL will verify the physicians information and conduct a fresh background check. Once qualified the Physician may select any number of Compact states for which they desire to practice.

**Status:** Became law on May 5, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

This bill:

- creates a chapter in the Occupations and Professions Code to establish the Psychologist Interjurisdictional Compact; and
- provides administrative rulemaking authority to the Division of Occupational and Professional Licensing to implement the multi-state compact.

**Status:** Became law on March 17, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

( ) Include in Volume  
( ) Include as a Note  
( ) Defer consideration:  
    ( ) next SSL meeting  
    ( ) next SSL cycle  
( ) Reject

Comments/Note to staff

**Summary:**

The Recognition of EMS Personnel Licensure Interstate CompAct (REPLCIA) is the nation's first and only multi-state compact for the Emergency Medical Services profession. REPLICA provides qualified EMS professionals licensed in a "Home State" a legal "Privilege To Practice" in "Remote States". Home States are simply a state where an EMT or Paramedic is licensed; Remote States are other states that have adopted the REPLICA legislation. The REPLICA Compact was activated on May 8, 2017 when Georgia signed the legislation into law. The compact administration is now working to implement the law.

As the EMS profession has evolved, so too have the capabilities of EMS personnel. This includes the need to respond across state lines in both day-to-day duties, in non-Governor level declared disaster situations and planned large scale events (staffing concerts and races or federal agencies dispatching personnel to support details). This has generated a renewed discussion on the importance of establishing a universal mechanism to assure a legal, practical, and consistent pathway for EMS personnel to have privileges to practice extended across state lines.

REPLICA will host a Coordinated Database, allowing for states to access and rapidly share EMS personnel licensure information, and thus achieve a new level of accountability within the EMS profession.

**Status:** Became law on August 15, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

The concurrent circumstances of an increasingly mobile workforce, disparities in access to healthcare, and the ability to deliver care through technology (e.g., telehealth) present the need and the opportunity to practice across state borders.

The purpose of the compact is to increase consumer access to physical therapy services by reducing regulatory barriers to interstate mobility and cross-state practice. In the current healthcare environment, portability of licensed individuals has been identified by many as a critical issue. The federal government has communicated concern about the current portability barriers and there have been several bills submitted to Congress in attempts to address this issue (military spouses, dual licensure system, etc).

With the changing healthcare system, evolution of physical therapy education, mobile communications between patient and client, mobility of patients accessing care, large healthcare corporations/insurance companies, and the advent of new ways in which to deliver care such as telemedicine, the ability of a clinician to practice across jurisdictional boundaries with minimal barriers is an issue coming to the forefront.

**Status:** Became law on March 14, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

**Status:** Became law on June 15, 2017

**Comments:** From the [Texas Tribune](#) (June 15, 2017)

Texas Gov. Greg Abbott on Thursday signed into law a measure that seeks to address the circumstances that led to the death of Sandra Bland, a black woman found dead in a county jail days after being arrested during a routine traffic stop.

The Sandra Bland Act mandates county jails divert people with mental health and substance abuse issues toward treatment, makes it easier for defendants to receive a personal bond if they have a mental illness or intellectual disability, and requires that independent law enforcement agencies investigate jail deaths. The law takes effect Sept. 1.

The law's namesake, a 28-year-old from Illinois, died in the Waller County Jail in 2015. Her arrest followed a lengthy argument between Bland and then-Department of Public Safety Trooper Brian Encinia, which was documented by the officer's dashboard camera.

After Bland's death – which was ruled a suicide – her family, activists and lawmakers swiftly criticized the rural jail's leadership and Encinia. With a new legislative session a long way away, the Texas Commission on Jail Standards was first to offer a solution, revising the intake screening process of county jail inmates to better identify mental health issues. During the legislative session, state Rep. Garnet Coleman of Houston introduced a bill named in honor of Bland. A comprehensive piece of legislation, the bill originally tackled racial profiling during traffic stops, consent searches and counseling for police officers who profiled drivers, in addition to jail reforms.

That bill didn't move out of committee because of opposition from law enforcement groups and lawmakers concerned about unfunded mandates. The Senate version of the bill, by state Sen. John Whitmire of Houston, removed much of the language related to encounters with law enforcement (de-escalation training remained) and became a mostly mental health bill, which ultimately passed both chambers without opposition.

Bland's family expressed disappointment in the Senate version of the bill, calling it a missed opportunity because it removed language relevant to Bland's stop.

The bill Abbott signed Thursday increases public safety, Coleman said in a statement.

"The Sandra Bland Act will prevent traffic stops from escalating by ensuring that all law enforcement officers receive de-escalation training for all situations as part of their basic training and continuing education," he said.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

08-39A-02    Trespassing, Interference and Destruction of Critical Infrastructure  
Bill/Act: [HB 1123](#)    Oklahoma

**Summary:**

An Act relating to crimes and punishments; making certain acts unlawful; providing penalties; defining term; providing for codification; and declaring an emergency.

**Status:** Became law on May 3, 2017.

**Comments:** From [NewsOK](#) (May 7, 2017)

The months long resistance against the Dakota Access Pipeline influenced a new law targeting similar protests in Oklahoma.

In January, a coalition of Native American and environmental activists said they planned to block the proposed Diamond Pipeline, a \$900 million project that will carry crude oil from the Cushing refinery hub toward Tennessee.

Despite the law, a lead opposition organizer said that the rush to strengthen Oklahoma's trespassing laws won't deter the movement.

Gov. Mary Fallin on Wednesday signed a bill that would levy steep fines or prison time against people convicted of trespassing at a critical infrastructure facility to impede operations. That includes pipelines, refineries, chemical plants, railways and other industrial sites.

The bill went into effect when she signed it.

Someone charged under the new law could face a \$10,000 fine and up to a year in jail if they intend to halt progress of a pipeline or otherwise interfere with operations. The penalty increases to 10 years and \$100,000 if the person is successful at damaging, vandalizing, defacing or tampering with equipment.

The fine for just trespassing at a critical infrastructure site would be at least \$1,000, but the Legislature did not include an upper limit.

"This law isn't about lost hunters or misplaced campers," said state Rep. Scott Biggs, R-Chickasha. "This law is about protecting our state's most important and critical infrastructure by holding those who seek to do our state harm accountable."

Biggs was the primary author for House Bill 1123, which also would hold organizations liable for the same acts. Any fine levied against the perpetrator would be 10 times greater for an organization found to be a conspirator.

The protests' critics have said out-of-state organizations supported the Dakota Access Pipeline standoff.

#### 'Vicarious liability provision'

On the same day Fallin signed that bill, lawmakers approved another one that would make trespassers liable for damages to real or personal property. House Bill 2128 also extends civil liability to a "person or entity that compensates, provides consideration or remunerates a person for trespassing."

The bill's author, state Rep. Mark McBride, said the so-called vicarious liability provision would apply to people who give lodging to those who are later arrested for trespassing. He said the idea for the bill came from actions along the Dakota Access Pipeline.

Democrats opposed the bill because it would allow lawsuits even if there is no conviction. A person could be hauled into court to pay for damage if they are, at a minimum, arrested on suspicion of trespassing.

"So at the end of the day, you can be arrested, acquitted, and somebody can be held liable for your completely lawful activity?" asked state Rep. Collin Walke, D-Oklahoma City.

McBride said it would be an issue for courts to decide.

"I think it's a fear tactic to try to oppress the First Amendment," said Mekasi Camp Horinek, state director for Bold Oklahoma. "As a father and son of the state of Oklahoma, I'm going to stand up and do what I feel is right for my family, for my people, and the people of this state."

Horniek likened the anti-pipeline protest to the civil rights movement because of civil disobedience.

"Without those people who were willing to sacrifice themselves and put themselves in a position to nonviolently break the law, some of the rights that we all benefit from today might not have happened if these types of laws were in place at the time," he said.

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

08-39A-03    Trespassing, Interference and Destruction of Critical Infrastructure  
Bill/Act: [HB 2128](#)    Oklahoma

**Summary:**

An Act relating to torts; permitting liability for damages committed by a trespasser; authorizing vicarious liability for person or entity that compensates trespasser; providing for codification; and providing an effective date.

**Status:** Became law on May 15, 2017.

**Comments:** From [NewsOK](#) (May 7, 2017)

The months long resistance against the Dakota Access Pipeline influenced a new law targeting similar protests in Oklahoma.

In January, a coalition of Native American and environmental activists said they planned to block the proposed Diamond Pipeline, a \$900 million project that will carry crude oil from the Cushing refinery hub toward Tennessee.

Despite the law, a lead opposition organizer said that the rush to strengthen Oklahoma's trespassing laws won't deter the movement.

Gov. Mary Fallin on Wednesday signed a bill that would levy steep fines or prison time against people convicted of trespassing at a critical infrastructure facility to impede operations. That includes pipelines, refineries, chemical plants, railways and other industrial sites.

The bill went into effect when she signed it.

Someone charged under the new law could face a \$10,000 fine and up to a year in jail if they intend to halt progress of a pipeline or otherwise interfere with operations. The penalty increases to 10 years and \$100,000 if the person is successful at damaging, vandalizing, defacing or tampering with equipment.

The fine for just trespassing at a critical infrastructure site would be at least \$1,000, but the Legislature did not include an upper limit.

"This law isn't about lost hunters or misplaced campers," said state Rep. Scott Biggs, R-Chickasha. "This law is about protecting our state's most important and critical infrastructure by holding those who seek to do our state harm accountable."

Biggs was the primary author for House Bill 1123, which also would hold organizations liable for the same acts. Any fine levied against the perpetrator would be 10 times greater for an organization found to be a conspirator.

The protests' critics have said out-of-state organizations supported the Dakota Access Pipeline standoff.

#### 'Vicarious liability provision'

On the same day Fallin signed that bill, lawmakers approved another one that would make trespassers liable for damages to real or personal property. House Bill 2128 also extends civil liability to a "person or entity that compensates, provides consideration or remunerates a person for trespassing."

The bill's author, state Rep. Mark McBride, said the so-called vicarious liability provision would apply to people who give lodging to those who are later arrested for trespassing. He said the idea for the bill came from actions along the Dakota Access Pipeline.

Democrats opposed the bill because it would allow lawsuits even if there is no conviction. A person could be hauled into court to pay for damage if they are, at a minimum, arrested on suspicion of trespassing.

"So at the end of the day, you can be arrested, acquitted, and somebody can be held liable for your completely lawful activity?" asked state Rep. Collin Walke, D-Oklahoma City.

McBride said it would be an issue for courts to decide.

"I think it's a fear tactic to try to oppress the First Amendment," said Mekasi Camp Horinek, state director for Bold Oklahoma. "As a father and son of the state of Oklahoma, I'm going to stand up and do what I feel is right for my family, for my people, and the people of this state."

Horniek likened the anti-pipeline protest to the civil rights movement because of civil disobedience.

"Without those people who were willing to sacrifice themselves and put themselves in a position to nonviolently break the law, some of the rights that we all benefit from today might not have happened if these types of laws were in place at the time," he said.

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

States' laws vary when it comes to arbitrating family law matters such as spousal support, division of property, child custody, and child support. The Uniform Family Law Arbitration Act standardizes the arbitration of family law. It is based in part on the Revised Uniform Arbitration Act, though it departs from the RUAA in areas in which family law arbitration differs from commercial arbitration, such as: standards for arbitration of child custody and child support; arbitrator qualifications and powers; protections for victims of domestic violence. This Act is intended to create a comprehensive family law arbitration system for the states.

**Status:** Became law on July 10, 2017.

**Comments:** From [Uniform Law Commission \(ULC\)](#)

The Uniform Family Law Arbitration Act (UFLAA) creates a statutory scheme for the arbitration of family law disputes. Arbitration is a private process that parties may use to resolve a dispute rather than going to court. During an arbitration, a neutral third party, the arbitrator, hears arguments from the parties, evaluates evidence, and makes a decision on their dispute. Although arbitration has long been used in the commercial context, it has recently begun to gain popularity in the family law sphere.

Under the UFLAA, a "family law dispute" is a contested issue arising under the state's family or domestic relations law. Family law disputes typically include disagreements about marital property, spousal support, child custody, and child support.

Under the Act, an arbitrator may not:

- grant a divorce;
- terminate parental rights;
- grant an adoption or guardianship of a child or incapacitated person; or
- determine the status of a child in need of protection.

The Act sets out arbitration procedures chronologically, from defining an arbitration agreement to providing standards for vacating a confirmed award. Many of the provisions of the UFLAA will be familiar to arbitrators and practitioners in the dispute resolution field. This is because the UFLAA is based in part on the Uniform Arbitration Act (1955) and Revised Uniform Arbitration Act (2000). The UFLAA's provisions for arbitrator disclosure, award, appeals, and arbitrator immunity, among others, are drawn substantially from these earlier uniform acts.

Since family law disputes are different from traditional commercial disputes, however, the UFLAA contains some key provisions that do not appear in the Uniform Arbitration Act or Revised Uniform Arbitration Act. Many of these differences have to do with protecting vulnerable individuals during the arbitration process, such as children and victims of domestic violence. For instance, unless waived by the parties, the UFLAA requires arbitrators to be trained

in detecting domestic violence and child abuse before arbitrating a family law dispute. If the arbitrator detects abuse, the arbitrator must stay the arbitration and refer the dispute to court. Likewise, if a party is subject to a protection order, the dispute will be referred to court for resolution.

Importantly, the UFLAA requires close judicial review of arbitration awards determining child-related issues. While an award regarding property or spousal support is subject to limited judicial review, a child-related award may not be confirmed by a court unless the court finds that the award complies with applicable law and is in the best interests of the child. Also, de novo review of child-related awards is a bracketed alternative that a state can choose to enact. In addition, some states may want to exclude child-related disputes from arbitration altogether, and the Act provides an opt-out alternative for that purpose.

Another unique provision of the UFLAA relates to agreements to arbitrate a dispute that may arise in the future (often referred to as “pre-dispute agreements”). Pre-dispute agreements are generally permissible under the UFLAA, in accordance with the UAA and the RUAA. If parties agree to arbitrate a future child-related dispute, however, then the parties must affirm the agreement to arbitrate at the time of the dispute before proceeding to arbitration.

After the court confirms an award, a party may request a modification under state law governing post-decree modifications. If the parties agree, modification actions can be resolved by arbitration.

The UFLAA is an overlay statute meant to work together with the state’s existing choice-of-law rules and contractual arbitration law. It provides a comprehensive, clear framework for the arbitration of family law disputes.

The work of the Drafting Committee is available at [www.uniformlaws.org](http://www.uniformlaws.org), the website of the Conference. A direct link to the Uniform Family Law Arbitration Act is available [here](http://www.uniformlaws.org/shared/docs/family%20law%20arbitration/UFLAA_Final%20Act_2016.pdf).  
[\[http://www.uniformlaws.org/shared/docs/family law arbitration/UFLAA\\_Final Act 2016.pdf\]](http://www.uniformlaws.org/shared/docs/family%20law%20arbitration/UFLAA_Final%20Act_2016.pdf)

**Status:** Became law on July 10, 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

**Summary:**

This act creates a specific class E felony offense for computer extortion involving ransomware (see Table on Penalties). Under the act, this offense consists of introducing ransomware into a computer, computer system, or computer network and demanding payment to (1) remove the ransomware; (2) restore access to the computer, system, or network or data contained therein; or (3) otherwise remediate the ransomware's impact. These actions may also be considered computer crimes, computer-related offenses, and extortion under existing law (see BACKGROUND).

The act defines "ransomware" as any computer contaminant or lock placed or introduced without authorization into a computer, computer system, or computer network that restricts the authorized person's access to the affected computer, system, network, or data contained therein. It does not include (1) authentication required to upgrade or access purchased content or (2) blocking access to subscription content in the case of nonpayment.

The act defines a "computer contaminant" as any set of computer instructions designed to modify, damage, destroy, record, or transmit data held by a computer, computer system, or computer network without the data owner's intent or permission.

**EFFECTIVE DATE:** October 1, 2017

**BACKGROUND**

**Computer Crimes**

The law designates various actions as computer crimes, including unauthorized use of a computer or computer network with the intent to (1) temporarily or permanently remove, or otherwise disable, computer programs, software, or data or (2) cause a computer to malfunction regardless how long the malfunction persists. Any such action is punishable as a (1) class A or B misdemeanor depending on the amount of property damage the action causes or (2) class D felony if the action was malicious and caused more than \$2,500 in property damage (CGS § 53-451).

**Computer-Related Offenses**

The law designates various actions as computer-related offenses, including (1) accessing a computer system without authorization, (2) stealing or interrupting computer services, (3) misusing computer system information, and (4) destroying computer equipment. The penalties range from a class B misdemeanor to a class B felony depending on the amount of damage to, or value of, the property or computer services (CGS §§ 53a-250 et seq.).

**Extortion**

By law, obtaining property by extortion consists of compelling or inducing someone to deliver property to the actor or another person by instilling fear that, if the property is not delivered, the actor will take certain measures, including damaging the property or inflicting other harm. Obtaining property by extortion constitutes 1st degree larceny, a class B felony (CGS §§ 53a-119 and 53a-122).

**Status:** Became law on June 29, 2017

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

08-39A-06    Creating Office of Cyber Defense Coordination  
Bill/Act: [AB 471](#)

Nevada

**Summary:**

AN ACT relating to cybersecurity; creating the Nevada Office of Cyber Defense Coordination within the Department of Public Safety; providing for the powers and duties of the Office; requiring the Nevada Commission on Homeland Security to consider a certain report of the Office when performing certain duties; providing for the confidentiality of certain information regarding cybersecurity; requiring certain state agencies to comply with the provisions of certain regulations adopted by the Office; and providing other matters properly relating thereto.

**Status:** Became law on June 2, 2017.

**Comments:** From [Government Technology](#) (June 6, 2017)

Nevada Gov. Brian Sandoval (center) signs legislation creating the Office of Cyber Defense Coordination within the Department of Public Safety June 2. GOV. BRIAN SANDOVAL'S OFFICE

In a flurry of legislative approvals June 2, Nevada Gov. Brian Sandoval added his signature to Assembly Bill 471, which formally stands up the Office of Cyber Defense Coordination within the Department of Public Safety. The move makes Nevada one of the latest states trying to shape its cybersecurity destiny with an office meant to coordinate and respond to the myriad threats circulating the Internet.

The governor's signature on the bill followed a unanimous vote in the Senate and a nearly unanimous vote in the House, with 40 yea votes and two abstentions. Like many similarly focused agencies in surrounding states, the Nevada cybersecurity office is part of a larger effort to identify and negate threats posed to the state government and citizen data.

"As I said in my State of the State address, there are now five battlefields in our constant fight for safety and security: land, sea, air, space and cyberspace," Sandoval said in a press release. "I'm proud to create Nevada's first Cyber Defense Center, which will be tasked with detecting, preventing and responding to attacks. We must remain vigilant and stay ahead of those who seek to steal our private information and endanger our resources."

In his January 2017 State of the State address, Sandoval put an emphasis on making the state a business powerhouse, pointing to areas like technology, innovation and renewable energy as key to the mission. His approval of the cybersecurity legislation seems in keeping with this spirit.

Under the terms of the recently enacted law, the office would be required to host periodic reviews of state agency systems and identify shortcomings, while proposing standards and guidelines for future mitigation. The office would also be charged with agency performance auditing and the development of training and education programs for state personnel. The law

also outlines the appointment of a cybersecurity response team by the yet-to-be-named office administrator.

The consolidation of cybersecurity assets to a central office is not an unusual move at this stage in the IT game. Though the forms of the organizations differ in their authority and structure, the general premise behind them remains the same: protecting state systems and constituent data.

In 2015, New Jersey launched its version of the cybersecurity command center, the New Jersey Cybersecurity and Communications Integration Cell under Gov. Chris Christie. Similarly, Washington state's Office of Cybersecurity was created by lawmakers in 2015 to address threats to state networks and the critical infrastructure.

Georgia, in mid-2015, also took steps to outline a cybercentric organization with the creation of the State Government System Review Board, under the direction of the CIO.

Nevada's neighboring states have also been very proactive in the cybersecurity arena. California's Cybersecurity Integration Center, located within the Office of Emergency Services, was established by Gov. Jerry Brown in August of 2015. In March 2017, Idaho lawmakers approves a \$90 million deal for the construction of the Cybercore Integration Center on the Idaho National Laboratory campus. The facility will serve as a cybersecurity research, education and training facility.

In the state of Oregon, legislation in the Senate proposes the consolidation of cybersecurity powers under the state CIO, as well as establishing the Oregon Cybersecurity Center of Excellence and the Oregon Cybersecurity Fund.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

08-39A-07      Deferral and Dismissal Eligibility for Victims of Human Trafficking  
Michigan  
Bill/Act: [HB 4219](#)

**Summary:**

An Act regarding criminal procedure; sentencing; deferral and dismissal eligibility for victims of human trafficking; expand. Amends sec. 451c of 1931 PA 328 (MCL 750.451c).

**Status:** Became law on May 23, 2017.

**Comments:** From the [Governor Rick Snyder](#) (May 23, 2017)

LANSING, Mich. – Victims of human trafficking who were forced to commit crimes can now have their criminal records dismissed under legislation signed today by Gov. Rick Snyder.

“As a state, we need to do everything we can to assist victims of human trafficking,” Snyder said. “This bill helps victims have greater opportunities to rebuild their lives as they continue their journey toward healing and recovery.”

House Bill 4219, sponsored by state Rep. Bronna Kahle, amends the Michigan Penal Code by removing the restriction that an individual is eligible for deferral or dismissal of criminal charges only if there were no prior convictions. It is now Public Act 34 of 2017.

Snyder also signed seven additional bills:

House Bill 4167, sponsored by state Rep. Ben Frederick, amends the Vehicle Code to permit a truck-trailer combination towing agriculture drainage tubing to expand the allowable length of tubing from 59 to 75 feet. It is now Public Act 35 of 2017.

House Bill 4288, sponsored by state Rep. Klint Kesto, provides a technical update to the Uniform Interstate Child Support Act. The bill changes the wording in the act from “any” to “all” in the provision regarding when Michigan can exercise jurisdiction in intergovernmental child support cases. It is now Public Act 36 of 2017.

Senate Bill 46, sponsored by state Sen. Dale Zorn, allows for the mounting of emergency lights to areas other than the roof portion of the authorized emergency vehicle. This bill would amend the Michigan Vehicle Code to remove the requirement of flashing, rotating, or oscillating lights to be permanently or temporarily mounted on the roof section of emergency vehicles. It is now Public Act 37 of 2017.

Senate Bill 102, sponsored by state Sen. Wayne Schmidt, establishes the “Michigan Community Foundation Act” and consolidates into one statute the authority and process for a municipality, school or library to receive, sell or transfer certain gifts and property to a community foundation. It is now Public Act 38 of 2017.

Senate Bill 118, sponsored by state Sen. Goeff Hansen, amends the Natural Resources and Environmental Protection Act to allow the Department of Natural Resources to become a “rail-trail” sponsor and expand liability coverage to individuals conducting work on DNR trails and other lands. This act boosts the progress of Michigan’s trail systems while also preserving the integrity of the interstate commerce rails, should it become necessary to reactivate the railroad. It is now Public Act 39 of 2017.

Senate Bill 129, sponsored by state Sen. Tom Casperson, amends the Natural Resources and Environmental Protection Act to discern small native copper mines from large-scale mines. The bill provides oversight of small native copper mines and establishes a regulatory structure that is protective of the environment and public health and safety. It is now Public Act 40 of 2017.

Senate Bill 202, sponsored by state Sen. Jack Brandenburg, clarifies that free social media internet games will not be considered gambling so long as the reward offered by the games is either extended play or additional credits used to allow extended play. It is now Public Act 41 of 2017.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Existing law provides that when there is reason to believe that a person arrested for a violation of specified controlled substance provisions may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

This bill would repeal those provisions.

Existing law provides that whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

This bill would, among other things and subject to exceptions, prohibit state and local law enforcement agencies, including school police and security departments, from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified, and would, subject to exceptions, proscribe other activities or conduct in connection with immigration enforcement by law enforcement agencies. The bill would apply those provisions to the circumstances in which a law enforcement official has discretion to cooperate with immigration authorities. The bill would require, by October 1, 2018, the Attorney General, in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement to the fullest extent possible for use by public schools, public libraries, health facilities operated by the state or a political subdivision of the state, and courthouses, among others. The bill would require, among others, all public schools, health facilities operated by the state or a political subdivision of the state, and courthouses to implement the model policy, or an equivalent policy. The bill would state that, among others, all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy. The bill would require that a law enforcement agency that chooses to participate in a joint law enforcement task force, as defined, submit a report annually pertaining to task force operations to the Department of Justice, as specified. The bill would require the Attorney General, by March 1, 2019, and annually thereafter, to report on the types and frequency of joint law enforcement task forces, and other information, as specified, and to post those reports on the Attorney General's Internet Web site. The bill would require law enforcement agencies to report to the department annually regarding transfers of persons to immigration authorities. The bill would require the Attorney General to publish guidance, audit criteria, and training recommendations regarding state and local law enforcement databases, for purposes of limiting the availability of information for immigration enforcement, as specified. The bill would require the Department of Corrections and Rehabilitation to provide a specified written consent form in advance of any interview between a person in department custody and the United States Immigration and Customs Enforcement regarding civil immigration violations.

This bill would state findings and declarations of the Legislature relating to these provisions.

By imposing additional duties on public schools and local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

**Status:** Became law on October 5, 2017

**Comments:** From the [\*Los Angeles Times\*](#) (September 26, 2017)

In a strike at President Trump's call for more deportations, California lawmakers passed landmark "sanctuary state" legislation earlier this month to shield thousands of immigrants who have entered the U.S. illegally.

Senate Bill 54, approved on the last day of the 2017 legislative session, would limit whom state and local law enforcement officers can hold and question on immigration violations. It's now on Gov. Jerry Brown's desk and has set off a tense showdown between federal officials and state leaders over its potential effect on public safety.

Here's what's next if Brown signs it:

The law could land in court

The law would take effect in January, but Trump administration officials could challenge its provisions and even try to block it from being implemented.

U.S. Atty. Gen. Jeff Sessions, who has called SB 54 "unconscionable," is already locked in a legal battle with several cities, including San Francisco, over his move to withhold Justice Department grant funds to discourage "sanctuary city" policies. On the day California lawmakers voted to pass SB 54, a federal judge in Chicago largely blocked his measure.

State senate leader Kevin de León (D-Los Angeles), who introduced the legislation, has said state leaders are prepared to defend it in court. Some legal experts say an effort to block California's law would likely be unsuccessful, pointing to the 10th Amendment and previous rulings in which courts have found the federal government can't compel local authorities to enforce federal laws.

If it takes effect, there would be new limits on law enforcement

Dubbed the “California Values Act,” Senate Bill 54 would establish clear divisions between law enforcement and federal immigration authorities in an attempt to ensure local officers do not become part of deportation efforts under the Trump administration.

The law would largely prohibit state and local law enforcement agencies, including school and security officers, from using money or staff to investigate, question, hold or arrest people for immigration violations.

For many officers across the state, the expanded restrictions wouldn’t change much. Some police and sheriff agencies have already developed similar boundaries against working with immigration agents through their own policies or under local “sanctuary city” rules that limit collaboration between local agencies and federal immigration authorities. For other officers, the legislation would set new guidelines.

Agencies would be barred from:

With no exceptions

- asking about a person’s immigration status
- detaining someone on a “hold” request from U.S. Immigration and Customs Enforcement
- participating in arrests based on civil immigration warrants
- placing officers under the supervision of federal immigration agencies or deputizing them as special federal officers for immigration enforcement
- using ICE agents as interpreters for law enforcement matters
- participating in border patrol

With some exceptions

- providing information regarding an inmate’s release date from county jail unless that information is available to the public, or the person has been convicted of certain crimes
- transferring someone to ICE unless a judge finds probable cause or issues a warrant, or if the person has certain prior convictions
- contracting with the federal government to house federal detainees, unless specified in current law

All offenders would not be protected

Under the law, state and local agencies would not be able to detain immigrants for U.S. Immigration and Customs Enforcement based on “hold” requests, something many departments already stopped doing after a 2014 court ruling.

But the electronic fingerprint records for all offenders booked into state prisons and local jails would continue going to the FBI and the Department of Homeland Security.

Police and sheriffs would also be able to continue sharing inmates' release dates and transferring people to immigration authorities if they have been convicted within the last 15 years of one of roughly 800 offenses outlined in the Trust Act. That California law prohibits state and local law enforcement from holding people past their release dates for federal immigration agents unless they've been convicted of certain crimes.

Those include all serious and violent crimes, registered sex and arson offenses, domestic violence charges and other felonies. They also cover many nonviolent offenses and "wobblers" — crimes that can be charged as either a felony or misdemeanor.

But SB 54 did narrow the list: All seven drug and theft crimes reduced to misdemeanors under Proposition 47, which voters approved in 2014, would no longer be among those crimes.

'Safe zones' would be created

Other provisions in the bill were crafted to counter a chilling effect in immigrant communities, where some crime witnesses and victims have stopped coming forward to authorities out of fear of deportation.

Under the law, the state attorney general would have to publish policies by October 2018 to limit immigration enforcement at courthouses, public schools and libraries and health facilities run by state or local governments.

All other government-run organizations that offer physical or mental health and wellness services, or that provide access to education, legal aid and social services — including the University of California — would be encouraged but not required to adopt the state policies.

There would be more oversight and accountability

The state attorney general's office would have to publish guidelines and training recommendations in order to limit immigration agents' access to personal information, and all law enforcement agencies would have to send the office annual reports on the people they transfer to immigration authorities.

Law enforcement officials would still be able to participate in multi-agency joint task forces responsible for broad investigations, which sometimes include ICE criminal investigators. But their primary purpose could not be to enforce immigration laws, and they would have to submit annual reports to the attorney general on their activities, such as the types and frequency of arrests.

By March 2019, the state attorney general would have to publish an annual report on its website about the types of joint task forces operating across the state, an effort to give the public more insight into how many people without legal status they are detaining or questioning as part of those broader criminal investigations.

Prison policies would change

The California Department of Corrections and Rehabilitation would be exempt from all provisions in the bill.

But corrections officials would have to develop new standards to protect people held on immigration violations, and allow immigrant inmates to get credits toward their sentences if they join rehabilitation and educational programs.

State prison officials also would have to inform inmates if ICE has requested they be held or transferred, and provide them with written consent forms before any interview with immigration agents on civil immigration violations.

Some things would stay the same

As long as they don't violate existing city or county laws, any California law enforcement agency could continue:

- arresting or charging people for illegal reentry if a person has previously been deported and been convicted of aggravated felony
- providing ICE with information about a person's criminal record
- asking questions to determine whether a person is eligible for temporary legal status for victims of human trafficking or violent crime
- asking questions to determine if someone has violated federal laws on the sale of firearms to people without U.S. citizenship
- allowing immigration agents to interview people inside county jails or state prisons

The attorney general would enforce it

The legislation doesn't specify what happens if law enforcement agencies don't comply with the law. But the attorney general has broad authority under the California constitution to prosecute police and sheriffs agencies that don't follow SB 54's provisions should it be signed into law.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

( ) Include in Volume  
( ) Include as a Note  
( ) Defer consideration:  
    ( ) next SSL meeting  
    ( ) next SSL cycle  
( ) Reject

Comments/Note to staff

08-39A-09	Prohibits Private Post-Secondary Institutions Adopting Sanctuary Policies Bill/Act: <a href="#">HB 37</a>	Georgia
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**Summary:**

A BILL to be entitled an Act to amend Article 1 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to definitions, so as to provide definitions; to provide that private postsecondary institutions in this state shall not adopt sanctuary policies; to provide for penalties for violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

**Status:** Became law on April 27, 2017

**Comments:** From the [Atlanta Journal-Constitution](#) (Jan 11, 2017)

Private colleges in Georgia would be prohibited from creating “sanctuary policies” — or rules prohibiting them from cooperating with law enforcement officers on immigration enforcement and other matters — under a bill introduced Wednesday in the state’s Republican-controlled Legislature.

Inspired by discussions at Emory University about creating a sanctuary on campus for unauthorized immigrants, House Bill 37 says private colleges that break the law would lose state funding, including scholarships, grants and loans for their students. Tens of millions of dollars are at stake.

Emory has said it would follow state and federal laws. Last month, Georgia’s University System sent a strong signal that it does not want to see “sanctuary campuses” in the state.

Students and faculty from more than 100 universities have called on their schools to declare themselves sanctuaries since Donald Trump’s stunning upset in the presidential race. During his campaign, the Republican real estate mogul vowed to cancel an Obama administration program called Deferred Action for Childhood Arrivals — or DACA — which is temporarily shielding from deportation hundreds of thousands of young immigrants.

State Rep. Earl Ehrhart of Powder Springs, the Republican chairman of the House’s higher education financing panel, said his bill would apply to private colleges that “make a decision to effectively teach Lawbreaking 101.”

“This is not specific to immigration policy or anything else,” he said. “If they choose not to follow EPA policy or Labor Department policy or the laws of this state or the federal government, then the taxpayers are not going to place any tax money into their scholarships or research.”

HB 37 is among several immigration-related measures expected to be debated in the legislative session that began Monday.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

09-39A-01      National Guard Activation for Cybersecurity Threats  
Bill/Act: [SB 380](#)

New Mexico

**Summary:**

An act Relating to military affairs; authorizing activation of the National guard in the case of cybersecurity threats; placing Limits on the authority exercised pursuant to such Activations; prohibiting the incurrence of debt for such Activations; declaring an emergency.

**Status:** Became law on January 29, 2017

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

09-39A-02 Establishing Misdemeanors for Sex Offenders Who Use Drones Inappropriately  
Bill/Act: [SB 299](#) Indiana

**Summary:**

Offenses involving unmanned aerial vehicles. Amends the definition of "unmanned aerial vehicle" to specify that the term includes: (1) an unmanned aircraft and an unmanned aircraft system; and (2) a small unmanned aircraft and a small unmanned aircraft system; all as defined in federal law. Creates the following new criminal offenses involving the use of an unmanned aerial vehicle as Class A misdemeanors: (1) Sex offender unmanned aerial vehicle offense. (2) Public safety remote aerial interference. (3) Remote aerial voyeurism. (4) Remote aerial harassment. Provides that the offenses are Level 6 felonies if the accused person has a prior unrelated

**Status:** Became law on April 21, 2017

**Comments:** From [Data Privacy and Security Insider](#) (May 4, 2017)

S.B. 299, introduced by Senator Eric Koch, has passed the Indiana General Assembly, and is on its way to the desk of Governor Eric Holcomb for his final consideration. S.B. 299 would create Class A misdemeanor offenses specifically related to unmanned aerial vehicle (UAV or drones) to address the public's concerns on voyeurism, harassment and public safety. Koch said, "While the development of drone technology has a substantial benefit for society, we need to ensure they are not used to commit crimes."

- Specifically, S.B. 299 would create the following new offenses:
- Sex offender UAV offense;
- Public safety remote aerial interference (i.e., using drones to obstruct or interfere with first responders' operations;
- Remote aerial voyeurism; and
- Remote aerial harassment.

If an individual has a prior conviction for the same offense involving a UAV or if an unauthorized photo or video is published or included on the Internet, the charge will increase to a Level 6 felony. This is yet another reminder to continually check local and state drone laws for requirements and prohibitions.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

09-39A-03 Establishing Misdemeanor Offenses for Harassing Livestock with Drones  
Bill/Act: [HB 217](#)

Utah

**Summary:**

- This bill:
  - prohibits a person from intentionally, knowingly, or recklessly chasing, actively disturbing, or harming livestock through the use of:
    - a motorized vehicle or all-terrain vehicle;
    - a dog; or
    - an unmanned aircraft system; and
  - describes the penalties for violating the prohibition on harassment of livestock.

**Status:** Became law on March 21, 2017.

**Comments:** From [Unmanned Aerial Online](#) (March 24, 2017)

Gov. Gary R. Herbert, R-Utah, has signed into law H.B.217, a bill that keeps unmanned aircraft system (UAS) operators from “harassing” livestock.

Rolled out earlier this year by chief sponsor Rep. Scott Chew, R-District 55, and floor sponsor Sen. Don Ipson, R-District 29, the legislation says “a person is guilty of harassment of livestock if the person intentionally, knowingly or recklessly chases or otherwise disturbs the peace of livestock” via UAS. The bill also covers harming livestock via motorized vehicles/ATVs and dogs.

For a first offense – and if the animal is not “seriously injured or killed” or “displaced onto property where the livestock is not entitled to be” – a person who is found guilty will be charged with a class B misdemeanor.

On the other hand, a person will be charged with a class A misdemeanor if it is a second offense, if the livestock is “seriously injured or killed,” or if there is livestock or property damage in excess of \$1,000.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

09-39A-04    Criminal Penalties for Drone Operators who Commit  
Trespass, Voyeurism or Other Privacy Violations  
Bill/Act: [S.B 111](#)

Utah

**Summary:**

To amend section 4511.21 of the Revised Code to require school zones to be indicated by signs equipped with flashing or other lights or that indicate the times during which the restrictive speed limit is enforced, and to make an appropriation.

**Status:** Became law on April 26, 2017

**Comments:** From [The Daily Universe](#) (July 28, 2017)

A bill passed recently in the Utah Legislature is striving to address privacy concerns about the recreational use of drones.

S.B. 111 prohibits drone operators from committing trespass, voyeurism or other privacy violations and establishes criminal penalties for doing so. It also deals with the safe operation of drones.

Harper said after hearing these stories, he was careful in crafting the bill to generalize the meanings of and penalties for voyeurism, trespassing and other privacy violations to accommodate evolving technology.

“Regardless of how you do it, voyeurism is voyeurism, harassment is harassment,” he said. “In the future as technology changes, law enforcement will still have the same tool and rules and law by which they go to investigate these acts.”

BYU news media professor and licensed drone pilot Quint Randle said there is paranoia surrounding drones, and some of it is warranted — but some of it is simply paranoia.

“There is a debate over privacy, and I acknowledge that debate. People do have a right of privacy to some degree,” he said. “But it seems like I should have the right to fly my aircraft from point ‘A’ to point ‘B’ at 300 feet without having to worry about whether someone’s going to get worked up because I crossed their property line.”

Neal Munson, a BYU junior majoring in physics-astronomy, said a drone in the wrong hands could become a problem.

Munson also said while he’s cautious about drones, he isn’t necessarily against them.

“I’ve flown a drone before. I thought it was a cool way to be on the ground and have your head up in the sky,” he said.

Elizabeth Melby, a BYU junior and human development major, said she recently had an experience that caused her to question her privacy and safety in a world of drones.

Melby said she thinks in some cases it is appropriate for law enforcement to enlist the help of drones, but having strangers watching is a different matter.

“I mean you don’t want someone flying their camera over your house,” she said. “That’s a real recipe for some real weirdos.”

She also said it’s creepy to think people can watch anyone from above with a drone.

Randle said as a drone user, he tries to be considerate when flying over private property. He also avoids flying his drone around his neighborhood and creeping out his neighbors.

Randle said recently the law was changed so individuals who use drones as hobbyists no longer have to register with the Federal Aviation Administration. Individuals who use drones for commercial purposes are still required to register for a Federal Aviation Administration Part 107 license.

He said another side of this complex issue is the federal government’s control of the airspace and the state’s lack of control.

“What the states have done is they are taking a privacy angle to say, ‘Well, we may not control the airspace but we can try to control the airspace by saying you’re invading privacy by being above someone’s house,’” Randle said.

There are even some authority issues within the state as well. Harper said drone users often can’t tell when they’ve crossed a city line, so it is difficult for every city or county in the state to have different rules.

“It was agreed to by the cities and counties and state that there would be one rule statewide for consistency, clarity and ease of compliance for the recreational users,” Harper said.

Randle said the current laws in Utah are reasonable for drone users. He sees the drone controversy around privacy, state and federal laws, and other issues — such as the extent of property lines — going to the Supreme Court one day.

Harper said S.B. 111 is still in the process of being implemented as word gets out about the changes to the law and as law enforcement adopt new rules and procedures. He is currently supporting the passage of the U.S. S.B. 1272, the Drone Federalism Act of 2017, which would allow states and local municipalities to decide on drone rules for their specific regions, shifting the responsibility and control from the Federal Aviation Administration to the local government.

“That will really give the states and the (Federal Aviation Administration) great parameters and guidelines as to what they should be doing and who should be doing what,” Harper said.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," (MCL 257.1 to 257.923) by adding sections 43b and 625t.

**Status:** Became law on August 24, 2017

**Comments:** From [mlive.com](#) (June 24, 2016)

LANSING, MI -- Bills signed today by Gov. Rick Snyder instruct police to create a pilot program in five Michigan counties for roadside drug testing.

Senate Bills 207 and 434, sponsored by state Sens. Rick Jones and Tom Casperson, respectively, create a one-year pilot program that will allow law enforcement officers trained as Drug Recognition Experts (DREs) to administer a saliva test to drivers suspected of being under the influence of drugs like heroin, marijuana and cocaine.

The saliva test would be in addition to the drug recognition 12-step evaluation currently used by DREs, Gov. Snyder said in a news release upon signing the bills Friday, June 24.

"The five-county pilot program will be used to help determine accuracy and reliability of the tests," the Governor's statement reads.

The "Barbara J. and Thomas J. Swift Law," is named after the couple killed in a March 20, 2013, crash in Escanaba, when a tractor-trailer ran a red light and careened into their Chevrolet Malibu.

Tractor-trailer driver Harley Davidson Durocher was convicted of charges including operating while intoxicated causing death, and sentenced to a minimum of five years and five months in

prison for the crash. Durocher's blood was drawn at a hospital following the crash showed THC, an ingredient of marijuana, leading to the charges.

After the crash, Brian Swift, the couple's son, said he contacted Casperson to try to make a better way to catch drugged drivers.

Casperson, whose district covers much of the Upper Peninsula, has said the legislation's intent is to allow the state to come up with "a reasonable standard" for drug testing, like it has in place for drunk driving.

The bills are now Public Acts 242 and 243.

Under the pilot program, an officer certified as a drug recognition expert armed with a swab-based drug detection kit could be called to a traffic stop to administer the roadside test. The legislation instructs the Michigan State Police to select five counties in which to implement the pilot program.

According to the Office of Highway Safety Planning, as of February, Michigan had 99 Certified Drug Recognition Experts in 37 counties.

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

10-39A-02 Roadside Drug Testing Pilot Program  
Bill/Act: [S.B 207](#)

Michigan

**Summary:**

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," (MCL 257.1 to 257.923) by adding sections 62a, 625r, and 625s.

**Status:** Became law on September 22, 2016

**Comments:** From [mlive.com](#) (June 24, 2016)

LANSING, MI -- Bills signed today by Gov. Rick Snyder instruct police to create a pilot program in five Michigan counties for roadside drug testing.

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Tractor-trailer driver Harley Davidson Durocher was convicted of charges including operating while intoxicated causing death, and sentenced to a minimum of five years and five months in

prison for the crash. Durocher's blood was drawn at a hospital following the crash showed THC, an ingredient of marijuana, leading to the charges.

After the crash, Brian Swift, the couple's son, said he contacted Casperson to try to make a better way to catch drugged drivers.

Casperson, whose district covers much of the Upper Peninsula, has said the legislation's intent is to allow the state to come up with "a reasonable standard" for drug testing, like it has in place for drunk driving.

The bills are now Public Acts 242 and 243.

Under the pilot program, an officer certified as a drug recognition expert armed with a swab-based drug detection kit could be called to a traffic stop to administer the roadside test. The legislation instructs the Michigan State Police to select five counties in which to implement the pilot program.

According to the Office of Highway Safety Planning, as of February, Michigan had 99 Certified Drug Recognition Experts in 37 counties.

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

Existing law prohibits a person from driving a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication, as defined, unless the electronic wireless communications device is specifically designed and configured, and is used, to allow voice-operated and hands-free operation, as specified. A violation of these provisions is an infraction.

This bill would instead prohibit a person from driving a motor vehicle while holding and operating a handheld wireless telephone or a wireless electronic communication device, as defined. The bill would authorize a driver to operate a handheld wireless telephone or a wireless electronic communications device in a manner requiring the use of the driver's hand only under specified conditions. By changing the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

**Status:** Became law on September 26, 2016

**Comments:** From [KCRA](#) (December 26, 2016)

**SACRAMENTO, Calif (KCRA)** — The New Year will bring new laws designed to improve public safety, including one meant to crack down on distracted driving by keeping drivers' hands off their phones and on the steering wheel.

**WHAT IS ASSEMBLY BILL 1785?**

Assembly Bill 1785 was signed into law by California Gov. Jerry Brown back in September, and it goes into effect Jan. 1, 2017.

Starting Sunday, drivers aren't allowed to use their cell phones while driving, unless they're using a hands-free device, or voice-operated commands.

The new law also calls for phones to be mounted to the windshield or a dashboard for drivers planning to use them on the road.

**WHAT ARE THE PENALTIES?**

Drivers caught violating the new law face a \$20 fine for their first offense and a \$50 dollar fine for their second.

## **WHAT'S THE POINT?**

Data from the California Department of Motor Vehicles shows that there were 12 deadly crashes last year from distracted driving with handheld cellphones.

DMV figures also revealed 500 injuries in 2015 and 700 property damage collisions from the same cause.

## **WHAT LOCAL STORES ARE SAYING**

The new law is good for some cellular wireless stores.

Jonathan Delgadillo, a supervisor at a Cricket Wireless store in Sacramento, told KCRA 3 that many customers are coming in with questions about the new law.

“They've been wondering, how are they going to get around with GPS?” Delgadillo said. “Not only that, but they like to listen to music while they're driving. It calms them down. How are they going to be changing songs from song to song?”

There are wireless headphones and other devices on the market that can help drivers comply with the new law.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

10-39A-04    Electronic Driver's License  
Bill/Act: [H.B. 481](#)

Louisiana

**Summary:**

Provides relative to the issuance and possession of drivers' licenses.

**Status:** Became law on June 17, 2016

**Comments:** From [GCN](#) (May 6, 2016)

Louisiana is making a push to become the first state to offer motorists an electronic copy of their state driver's license.

House Bill 481 would give drivers the ability to access their digitized license through a smartphone app offered by the Department of Motor Vehicles. The bill was approved last month by the Louisiana House Transportation Committee and will go to the full House for approval.

Even if the bill passes, drivers in the state would be required to carry a hard copy of their licenses while operating a vehicle. Many other states are also considering digitizing driver's licenses, including Illinois, Massachusetts and Iowa.

The electronic copy of the driver's license is "just added protection for that person who may have lost it... 99 percent of the time, you will find your phone before your driver's license," Karen St. Germain, commissioner of the Office of Motor Vehicles, told The Advocate. Motorists who want an electronic version will pay between \$3 and \$5 for the app.

To protect smartphone users' privacy, the bill prohibits law enforcement officials from randomly searching an iPhone or other device that carries the driver's license app.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

10-39A-05 Utilizing Vehicle Technology during Driver's Test  
Bill/Act: [A.B. 2789](#)

New Jersey

**Summary:**

This bill clarifies that individuals taking their driving test are permitted to use a backup camera and parking sensors if the car is equipped with these features. The New Jersey Motor Vehicle Commission previously required the cameras to be disabled or covered during a road test. By federal law, rear-view cameras become standard on all new vehicles for the 2018 model year.

**Status:** Became law on August 31, 2016

**Comments:** From [nj.com](#) (March 1, 2016)

Some elementary schools have stopped teaching handwriting (cursive), because -- well, because, who writes handwritten letters to friends anymore? Older students are often allowed to bring sophisticated calculators to mathematics tests because, well, why make them waste brain cells doing complicated calculations in their heads?

Next to be driven to the growing trash heap by new and emerging technology are the tried-and-true methods to master parallel parking and determine when it's safe to back up a vehicle -- looking in the mirrors and out the rear windows.

Back-up camera systems on new vehicles end a lot of the blind-spot guesswork that comes with shifting a car or truck into reverse. "Invisible" obstacles like fallen trash cans or, scariest of all, a small child, can come into view clearly. Parking sensors provide more help to figure out where the curb is.

Written driver testing services will resume at the West Deptford Motor Vehicle Commission office on Monday, Jan. 11.

One problem: The New Jersey Motor Vehicle Commission (MVC) doesn't recognize this equipment as a legitimate aid to acing your driver's license test.

Assemblyman John Burzichelli, D-Gloucester, thinks that's wrong. He's sponsored a bill to reverse an MVC edict that requires the cameras and such to be disabled or covered during a road test.

Burzichelli and co-sponsor Lou Greenwald, D-Camden, have a point. Barring high-tech systems in tests is like the MVC telling drivers they have to tie one hand behind their backs. After all, safety is reduced when these driving systems are disabled.

Yet, in academic pursuits, a top engineer shows his or her expertise by demonstrating the ability to do more than push little rubber buttons. Aren't we all supposed to be driving "experts"?

The real-world issue here involves cars and their age. By federal law, rear-view cameras become standard on new vehicles for the 2018 model year. But the average age of U.S. vehicles on the road is 11.4 years. Most lack these safety features.

Say 18-year-old junior, who has learned to drive and took his test in Dad's up-to-date 2016 Volvo, then buys his own first car. It's likely to be a 2009 bargain-basement Dodge or something similar. What will Jr. do when there is no screen that pops up visual assists? Not run over his younger sister, we hope. He should learn without the cameras.

At some point, technology becomes "ubiquitous," to cite a phrase in the statement for Burzichelli's bill, which has cleared an Assembly committee. With these cameras and such, we're not there yet.

As drafted, the law allowing the devices becomes effective immediately. Right now, the MVC should let adult drivers use the devices if taking the test in a car that they own. For youthful drivers in borrowed wheels, it would be best to stay with learning by eyeballing until the tech penetration reaches a truly ubiquitous 50 percent of the vehicle fleet.

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

10-39A-06 To Regulate Vehicles with Driver-Assistive Truck  
Platooning Systems  
Bill/Act: [HB 1754](#) Arkansas

**Summary:**

This legislation allows an exemption to the following distance of 200 feet between two vehicles if equipped with driver-assistive truck platooning systems.

**Status:** Became law on March 17, 2017

**Comments:** From [Talk Business & Politics](#)

Legislation for truck platooning was a priority for the Arkansas Trucking Association, just not at the top of the list. The trucking association had draft legislation, but without the right sponsor, the concern was it could be defeated. And with “too many balls in the air,” they conceded to not proceed with it.

“It was low on the priority list,” ATA president Shannon Newton said.

However, Rep. Charlie Collins (R-Fayetteville) introduced “a broader bill” on autonomous vehicle technology to put Arkansas in the lead of the other states. Collins said the trucking industry had can concerns about the bill as it was introduced.

“It was much more expansive,” Newton said.

She reached out to Collins about the bill, and he agreed to work with the trucking association on amending it. The bill was “significantly shortened,” and the “aggressive levels of autonomy” were removed.

On April 1, state legislators approved the legislation, and it was signed by the governor April 3. The law should go into effect in August, and big rig drivers using platooning technology won’t have to worry about a state statute restricting the following distance between two vehicles after it was changed to allow semitrailers to operate in platoons. Industry leaders and experts expect carriers to use the technology as early as this fall.

The change in the law will offer an exemption to the following distance of 200 feet between two vehicles, so “vehicles equipped with driver-assistive truck platooning systems” can follow “other vehicles closer than allowed.” The platooning technology will synchronize acceleration and braking between the vehicles, but it will leave “each vehicle’s steering control and systems monitoring and intervention in the control of its human operator.”

Collins explained platooning technology is like a “souped-up cruise control” that can be adapted to control multiple vehicles. Platooning technology has been deployed commercially, and is allowed in about 10 states, Newton said. It’s being used on the road, but the restriction on the following distance had prohibited it from use in Arkansas.

FedEx Freight has a planned route for platooning in the state, and J.B. Hunt Transport Services and Wal-Mart Stores also have expressed interest in the technology.

New trucks have most of the hardware that's used in platooning, including collision avoidance, lane departure and roll stability technology. This technology runs for less than \$5,000 per truck, said David O'Neal, director of safety services for Arkansas Trucking Association.

Newton said that no more than 10 trucking companies in the state have the technology in trucks to use platooning. But barring any issues, carriers could start using platooning technology as early as this fall.

John Kent, director of the Supply Chain Management Research Center at the University of Arkansas, would not be surprised to see trucks operating in a platoon this year.

"We will see this very soon in the wide open spaces between Arkansas and the West Coast," Kent said. Also, expect to see platooning on routes between Canada and Mexico.

However, don't expect it on any street or every highway, especially in densely populated areas. In the short term, it will most likely take place on interstates, such as I-40, between Fort Smith and Memphis or possibly I-30, between Little Rock and Texarkana. Platooning would be used along roads "where would we use our cruise control." The primary benefit of platooning is improved fuel consumption, Kent said. Other benefits include reduced emissions and better safety.

Fuel use accounts for 41% of a fleet's operating expenses, and platooning technology "has the potential to significantly reduce fuel use because of "aerodynamic drafting effects," according to the American Transportation Research Institute, the research arm of trade organization American Trucking Associations. Two trucks in a platoon traveling at 62 mph and 36 feet apart are about 7% more fuel efficient — a 10% increase in efficiency for trailing trucks and 5% more for lead trucks. After investing in the technology, large fleets expect a return on investment in 18 months, while small fleets might see a return in 10 months.

Before one can operate the platooning technology in the state, the Arkansas Highway Commission must approve "a plan for general platoon operations." Or 45 days must pass after the plan is submitted to the commission, and the plan has not been rejected. A plan has yet to be submitted to the commission.

While his broader legislation on autonomous vehicle technology didn't make it to a vote this legislative session, Collins sees the legislation allowing platooning technology as a first step toward what he sees as moving Arkansas forward.

"It will be implemented in a safe way," he said. "I think it's a great balance."

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff

10-39A-07      Regulating Driverless Vehicles  
Bill/Act: [S.B. 17-213](#)

Colorado

**Summary:**

This legislation allows a person to use an automated driving system to drive or control a function of a motor vehicle if the system is capable of complying with every state and federal law that applies to the function that the system is operating. It requires approval (of the state department of transportation) for vehicle testing if the vehicle cannot comply with every relevant state and federal law. It requires the department of transportation to submit a report on the testing of automated driving systems.

**Status:** Became law on June 1, 2017

**Comments:** From [The Denver Post](#) (June 1, 2017)

If you're thinking about developing an autonomous vehicle in Colorado, go ahead. It's now legal, as long as you obey all of the existing rules of the road, according to legislation that Gov. John Hickenlooper signed into law Thursday.

"It's hard to get the right balance between regulation and avoiding the red tape that sometimes stifles innovation," said Hickenlooper, standing in front of a Chevrolet Bolt EV autonomous test vehicle that was trucked in from Michigan and is on its way for road tests in Arizona. "This is the right balance that allows Colorado to be a hotbed of innovation."

less cars. It wasn't meant to delve into the nitty-gritty of how autonomous vehicles should operate on the state's roads. Rather, said sponsor state Sen. Owen Hill, R-Colorado Springs, the new law focused on creating a process that allows for autonomous vehicles to be tested safely. People in the cars, for example, must still fasten their seatbelts, Hill said.

"We were very clear in writing the law that we're not changing any of those other laws. Obviously, seatbelts is one of them. Turning indicators, moving aside for emergency vehicles — all of those laws still have to be followed," Hill said. "If you get into a car and don't fasten your seatbelt, you're the one liable. It's not your car's job to make sure you as the owner are doing your job."

The law does require companies who plan to test driverless cars in Colorado to first check in with the state Department of Transportation and State Patrol.

Driverless cars — which use sensors, cameras, GPS and lasers to drive on their own — are being tested on the roads in California, Arizona and Michigan. While most states have pending legislation or have considered rules, Colorado becomes the 17th to pass legislation, according to the National Conference of State Legislatures. Governors in three other states have issued executive orders related to autonomous vehicles.

"In 2017, 33 states have considered autonomous-vehicle bills and seven states have enacted legislation," said Amanda Essex, NCSL's policy specialist on transportation. "State action ranges

from establishing a committee to study the technology to developing regulations regarding the operation of autonomous vehicles on public roads. The number of states considering legislation has increased each year since 2012, and at least 41 states have considered legislation addressing autonomous vehicles in the last five years.”

When the bill was introduced, opponents expressed concern about safety and wished the bill included language for a backup human driver. But proponents, including Advocacy Denver, noted how driverless cars could improve opportunities for people with disabilities, while a farmer representing the Colorado Farm Bureau said his auto-pilot tractor greatly reduced accidents at night.

In Colorado, Panasonic is developing a smart city that will include autonomous electric EZ10 shuttles from France’s EasyMile, which is moving its U.S. headquarters to Denver. Also, the state in October hosted Uber’s self-driving tractor-trailer that drove Budweiser beer more than 120 miles to Colorado Springs from Fort Collins.

But will GM bring its self-driving tests to Colorado?

“Denver, as you’ve heard, is now open for business, so it’s certainly under consideration by GM and by anybody else in the industry. There are a lot of other companies developing this technology as well,” said Harry Lightsey, GM’s executive director of emerging technologies policy and who attended the signing. “That’s the exciting part of it, too. You don’t have to be an automaker to develop this, and that’s the good thing about the Colorado law.”

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

This legislation allows agencies to pursue public-private partnerships for mass transit projects and associated projects such as transport or service vehicles and parking facilities.

**Status:** Became law on May 2, 2016

**Comments:** From [The National Council for Public-Private Partnerships](#) (April 29, 2016)

Tennessee Gov. Bill Haslam signed into law April 27 a bill that will allow agencies to pursue public-private partnerships for mass transit projects and associated projects such as transport or service vehicles and parking facilities.

As introduced, SB 2093 would have authorized the use of P3s to develop a broad range of transportation projects but was amended to exclude highways, bridges and tunnels at the behest of the road builders' lobby, said Sen. Bill Ketron, who introduced the bill. As a result, P3s would be used only to develop mass transit such as a light rail line, or a \$2.3 billion project Ketron favors that would install a monorail to link Murfreesboro to Nashville.

SB 2093 permits developers to submit unsolicited proposals but includes a 90-day period during which other firms can submit competing proposals.

The law also requires the private partner to pay for an independent audit of all cost estimates associated with the development or operation of a project whose estimated cost exceeds \$50 million. The audit also must include a review of the project's public costs and any risks it could pose to taxpayers and the audit's results will be subject to public disclosure, the bill summary explains.

“With long-term funding sources for transportation being uncertain, the ability to enter into private-public partnerships will allow us to finance projects that we might not otherwise be able to even consider,” said Ketron on April 5 after the state Senate approved the bill. “This legislation is the result of months of collaboration by many groups that understand the necessity for forging ahead to find solutions to the challenges we face to meet growing transportation demands in Tennessee.”

The law will take effect Oct. 1.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:

- next SSL meeting
- next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

This legislation establishes a statewide framework to regulate ride-hailing companies such as Uber and Lyft and supersedes local rules that the two companies have argued are overly burdensome for their business models

**Status:** Became law on May 29, 2017

**Comments:** From [The Texas Tribune](#) (May 17, 2017)

After a debate among lawmakers over the best way to regulate services like Uber and Lyft, the Texas Senate on Wednesday backed a proposal that would override local regulations concerning ride-hailing companies.

House Bill 100 would establish a statewide framework to regulate ride-hailing companies and undo local rules that the two companies have argued are overly burdensome for their business models.

“Regulating them at the city level will always be challenging,” the bill’s Senate author, state Sen. Charles Schwertner, R-Georgetown, said. “Transportation, by nature, is a regional concern.”

His bill passed in the upper chamber in a 20-10 vote on its third and final reading. The measure now heads to the governor’s desk.

Though the vote on the bill was originally announced as 20-10, senate records later showed it actually passed 21-9, meaning more than two-thirds of the Senate supported the measure. That distinction matters because of a provision in the bill that allows it to go into effect immediately after the governor signs it instead of on Sept. 1 if it receives support of two-thirds of the members in both chambers. As the measure passed the House in a 100-35 vote, it means ride-hailing companies like Uber and Lyft could potentially return to cities like Austin as early as this summer.

At times, the debate over the bill appeared to veer into whether its passage would create a barrier for future ride-hailing services attempting to compete in the marketplace. Though he still voted for the measure, state Sen. Don Huffines, R-Dallas, expressed concerns that the bill would stifle the free market.

“While HB 100 is an improvement on the status quo, it remains a missed opportunity to foster innovation,” Huffines said in a written statement. “Government regulations are a poor substitute for market forces and personal responsibility.”

Schwertner, however, pushed back on these claims and insisted that his bill would help pre-empt “overly protectionist municipalities.”

State Rep. José Menéndez, D-San Antonio, also questioned a controversial amendment tacked on by the House that defines "sex" as "the physical condition of being male or female." Schwertner had introduced a committee substitute that stripped the "sex" amendment, but he later withdrew the substitute without discussion when the bill was being heard in the Senate State Affairs Committee.

"My concern is that ... it might not be extremely obvious or evident what the actual sex of [a passenger] is and I'm not sure why, in a transportation bill, we have a definition of what that condition would be," Menéndez said. "That line has the potential for discrimination, and I'm somewhat put off by that."

The "sex" amendment proposed by state Reps. Tony Tinderholt, R-Arlington, and Briscoe Cain, R-Deer Park, comes amid a legislative session in which some GOP lawmakers have pushed for measures that would keep transgender Texans from using public bathrooms that match their gender identities.

The amendment passed in the House last month on a 90-52 vote without objection from Paddie, who said he viewed it as simply "further defining something that's already defined."

Tinderholt, pushing back against claims that his amendment could lead to discrimination against the LGBT community, previously said "there's no huge reason behind [the amendment]. I just wanted to clarify." Uber and Lyft, the companies that have pushed for the legislation, objected to the amendment, but neither withdrew their support from the bill. Several House Democrats took their names off the bill after the amendment passed.

During Wednesday's floor debate, Schwertner signaled his support for the controversial amendment. He also disputed claims that the amendment would open the door for discrimination against transgender Texans.

"It's really just kind of self-obvious, but the House decided to add it," Schwertner said.

The primary issue addressed by the legislation is whether companies such as Uber and Lyft should perform fingerprint-based background checks, much like many cities require of taxi drivers.

HB 100 would require ride-hailing companies to have a permit from the Texas Department of Licensing and Regulation and pay an annual fee to operate throughout the state. It also calls for companies to perform local, state and national criminal background checks on drivers annually — but doesn't require drivers to be fingerprinted.

After Austin implemented a fingerprinting rule, Uber and Lyft spent millions in a campaign last year to overturn it — an effort that ultimately failed when voters rejected a ballot proposition on the issue. After the vote, both companies immediately suspended services in the city, and the resulting ride-hailing vacuum attracted several start-up ride-hailing apps to Austin that have said they comply with the city's rules.

“A statewide framework for ridesharing will help bring greater economic opportunity and expanded access to safe, reliable transportation options to more Texans,” said Sarfraz Maredia, general manager for Uber Texas. “We look forward to making Uber available in more cities across Texas and continuing to serve drivers, riders, and the communities in which they live.”

Lyft spokesperson Chelsea Harrison said: “Ridesharing in Texas took a tremendous step forward today. Thank you to Senator Schwertner and Representative Paddie for defending consumer choice and all the stakeholders who have helped create safer roads and expand reliable, affordable rides for Texans.”

Currently, 41 other states have adopted comprehensive ride-hailing laws similar to Paddie’s proposal. The Florida Legislature also passed a statewide measure in mid-April.

Read related Tribune coverage:

A bill meant to regulate ride-hailing companies has now made its way to the Senate — and senators have revived controversial language that would define “sex” as “the physical condition of being male or female.”

Representatives for Uber and Lyft said an amendment to a statewide ride-hailing bill that defines “sex” as “the physical condition of being male or female” is disappointing and unnecessary.

A group of House members removed their names as co-authors of a bill that would regulate ride-hailing companies because of an amendment that defines “sex” as the “physical condition of being male or female.”

A Senate committee heard testimony on three bills that would override local regulations concerning ride-hailing companies.

Disclosure: Uber and Lyft have been financial supporters of The Texas Tribune. A complete list of Tribune donors and sponsors is available [here](#).

### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

10-39A-10 Requiring Ride-Hailing Drivers to Maintain Business Licenses Nevada  
Bill/Act: [SB 554](#)

**Summary:**

This legislation requires transportation network company drivers to obtain a business license within their first six months of driving for the company.

**Status:** Became law on June 13, 2017

**Comments:** From [NBC News Las Vegas](#) (June 14, 2017)

CARSON CITY (AP) — Nevada is stepping up enforcement of an existing law requiring Uber and Lyft drivers to maintain business licenses.

Republican Gov. Brian Sandoval signed a Democratic bill on Tuesday that will require drivers to prove they have obtained a \$200 state business license within six months of joining a transportation network company.

Drivers who enter into contracts before Oct. 1 will have a full year to prove compliance under the new law.

Nevada's secretary of state administers the licenses.

The bill allows the secretary of state to require drivers to turn over other information the office deems necessary to ensure compliance with the law. Confidential information must be protected. Senate Bill 554 was among the few nail-biter proposals that passed in the final hour of the 2017 legislative session on June 5.

**Disposition of Entry:**

SSL Committee Meeting: 2019 A

- Include in Volume
- Include as a Note
- Defer consideration:
  - next SSL meeting
  - next SSL cycle
- Reject

Comments/Note to staff

**Summary:**

This legislation allows the use of driver-assistive platooning technology on highways in the state; preempts local regulation; requires the reporting of any crashes to the department of motor vehicles within 10 days if the crash results in personal injury or property damage greater than \$750; allows a fine of up to \$2,500 to be imposed for violations of laws and regulations relating to autonomous vehicles; permits the operation of fully autonomous vehicles in the state without a human operator in the vehicle; specifies that the original manufacturer is not liable for damages if a vehicle has been modified by an unauthorized third party; allows the DMV to adopt certain regulations relating to autonomous vehicles; defines “driver,” for purposes of an autonomous vehicle, to be the person who causes the automated driving system to engage; specifies that the following distance requirement does not apply to a vehicle using platooning technology; imposes an excise tax on the connection of a passenger to a fully autonomous vehicle for the purpose of providing transportation services; specifies requirements for autonomous vehicle network companies, including a permitting requirement, prohibitions on discrimination, and addressing accessibility; and permits the use of autonomous vehicles by motor carriers and taxi companies if certain requirements are met.

**Status:** Became law on June 16, 2017

**Comments:** From [Las Vegas Sun](#) (June 20, 2017)

Nevada displayed its dedication to refining autonomous vehicles, with the passage of and signing of Assembly Bill 69, industry officials said.

AB69 strengthens the state’s efforts in policy, as well as the research and development of fully autonomous vehicles. Gov. Brian Sandoval signed the bill into law on Friday, after it passed the Legislature with industry support from various automotive groups including General Motors, the Self-Driving Coalition — including Waymo, Uber, Lyft, Ford and Volvo — and the Alliance of Automobile Manufacturers.

“AB69 is an important step forward for self-driving in Nevada,” said David Strickland, general counsel for the Self-Driving Coalition for Safer Streets. “We applaud Gov. Sandoval and state lawmakers for enacting this crucial legislation, which will update existing statutes to permit the testing and commercial public deployment of fully self-driving vehicles while also supporting innovation and promoting competition.”

The legislation allows for testing and operations of fully autonomous vehicles; simplifies and clarifies the legal authority for entities testing or operating autonomous vehicles in Nevada; authorizes commercial use of fully autonomous vehicles; authorizes testing and operations of driver-assistive platooning technologies.

Sandoval said that AB69 will help ensure that Nevada is the leader in the future of fully autonomous vehicles. “With safety at the forefront, we have created the opportunity for innovative companies to not only test and operate their autonomous vehicles in our state, but also to conduct the research and development, in partnership with our universities, that will move driverless technology from exciting concept to reality,” Sandoval said.

Testing for the first completely autonomous, fully electric shuttle to ever be deployed on a public roadway in the U.S. took place in downtown Las Vegas in January.

Arma, the driverless vehicle developed by the Paris-based company Navya, made trips down Fremont Street for just over a week. The vehicle held a dozen passengers and operates at up to 27 miles per hour. During the test run, the shuttle was limited to 12 mph.

Steve Hill, director of the Governor’s Office of Economic Development, said the signing of AB69 showed the governor’s push toward technology and the industry developments within it.

“In working closely with industry, this legislation was crafted to ensure safety is and would remain the paramount focus in fostering the driverless industry.” Hill said. “Through that, Nevada is quite simply the place to be for testing and deploying this exciting, safety-enhancing technology.”

#### **Disposition of Entry:**

SSL Committee Meeting: 2019 A

- ( ) Include in Volume
- ( ) Include as a Note
- ( ) Defer consideration:
  - ( ) next SSL meeting
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff